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The University as Multiple Fool

Academic Freedom in the Catholic University

Brief on Taxation

Mount Allison University

Simon Fraser University

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C. B. Macpherson

the UNIVERSITY as MULTIPLE FOOL

This article was first given as a convocation address at Memorial University of Newfoundland 22 May when Professor Macpherson was granted an honorary degree. It also served as a position paper during discussion on the role of the C.A.U.T. last July. The author is a Full Professor of Political Economy at the University of Toronto and a Past President of the C.A.U.T.

Universities, although expanding at an extraordinary rate these days in our country, are not entirely immune from doubting politicians. Where there is smoke there is fire. The public is doubting too. In these circumstances I think it may be worthwhile to make a somewhat unusual plea for the university, and I mean for the public responsibility of the university. Not that it is unusual for orators on occasions like this to assert that the university has a public responsibility. All that is unusual is the way I shall ask you to see that responsibility. I am not an ivory tower man, although I know that a case can be made — a good case, too — for the university as an ivory tower, an academy which is the refuge of true scholarship from the clamour of the marketplace and the relentless pressures of day-to-day needs. But I think that society has a right to expect more than that of the university; has a right to expect it to perform some social function.

There is no doubt of the fact — it is a matter of simple observation — that North American society *does* expect the university to do something for it. Governments — in our case primarily provincial governments — acting in the name of the taxpayers, are highly conscious of how much they spend on universities, and, as the bill goes up and up, they are sometimes perplexed as to whether the society they represent is getting its money's worth. That is rather a coarse way of looking at so fragile and artistic a thing as higher education, but given our market-minded civilization it is perfectly natural, and quite right. Society *should* be getting its money's worth. But we in the university must be coarse about it too, or at least we must be blunt about it.

We must say bluntly that society, and the governments which represent society, are not getting, and cannot get, their money's worth as long as they ask for and expect the wrong product, and that in large measure they are asking for the wrong product.

They have not always done so, though they have always asked for much the same product. In a healthy and stable society such as we, looking enviously backwards, imagine the mediaeval European societies to have been (where universities were first founded), or in a healthy and expanding society such as, again enviously, we see North American society as having been in the nineteenth century, it was appropriate enough for society to ask simply that the universities reinforce and transmit the values and the knowledge on which the society was based and by which it operated, and perhaps add a little to the knowledge. In this way the university would fulfil a worthy social function — it would produce and reproduce the soundly-oriented and skilled people the society needed for its religious and civil bureaucracies and its learned professions. Even then it was sometimes seen that, to do so most effectively, some questioning of received wisdom was in order, if only to strengthen that wisdom and ensure that it be held by firmly reasoned conviction rather than by rote. But the main thing was to reproduce the wisdom, and to reproduce the people who could use it.

Society still asks this of the universities. But in a sick or distracted society this is no longer enough; indeed, it may stand in the way of what most needs doing. The university can still do the things it has always done, but if it makes this its main or its only task, its resources are being not only underused but wrongly used. And if society asks it to do this, society is not going to get its money's worth. What a sick society needs most is diagnosis, at every level of its malfunctioning: ecological, physiological, economic, psychological, political, and above all (or below all), to use an old-fashioned word in little repute these days, moral. It needs diagnosis not just of what has gone wrong with its mechanism, but what has

gone wrong with its values. No-one who looks at our world today without blinkers can fail to see the mess we are making of it. Those whose powers of reflection have not been pulverized by the information and entertainment industry, as well as those who are on the short end of the affluent society, or in the sick ward of it (perhaps I should say in the sickest ward of it), know or sense that there is something basically wrong. I need not catalogue the ills: it is enough to point to one of them, which can stand for all the rest. We in Canada are of course holier than the Americans, but we have not rid ourselves of complicity in their war in Vietnam. We do not know how to do so because we are not clear in our minds about what is basically wrong. We don't know whether it is wrong to be un-American, or whether that is so wrong as to deserve the penalties now imposed on those who are. And we seem equally at a loss about all our home-grown ills.

Who can doubt that we need clearer diagnosis ? And where better than in the university, with its intellectual resources in the natural and social sciences and the humanities, can this be done — indeed where else in our society can we expect it to be done ? If it is to be done properly, it has to be an intellectual job; it needs hard thinking as well as action. And it has to be a critical job, a radically critical job. If we in the universities don't do it, responsibly and critically, others will do it, on the streets and on all the varied battlefields of modern civil war.

It seems to me to follow from this that the primary function of the university in a sick society, the function which society should be asking the university to perform, is dissent: dissent from all the received diagnoses which have failed. That is the only way society can get its money's worth from the university in our days.

It may seem odd to suggest that a going society should finance its own critics, or even create them. But in the first place, it is not likely that society puts itself in any great danger by promoting the university as the centre of dissent. Less danger, at any rate, than by not doing so. And less danger than academics may think, for most of us are apt to delude ourselves into thinking that we are indispensable to the ongoing work and power of a society. This, I am afraid, is a delusion. The world's work would not come to a halt if universities disappeared — not for several decades at least. The delusion that it would is shared by, but not unique to, those radical students who seek to capture the universities as a means of bringing about the destruction of the existing social order. But what *would* very likely come to a halt if universities disappeared, and will come to a halt if they abdicate their proper critical function, is society as a morally defensible affair.

I referred a while ago to mediaeval society and its comparative moral stability. I think it is fair to say that its comparatively healthy moral tone may be attributed in part to an institution which most mediaeval political and ecclesiastical communities maintained, and which we might think of adapting to our needs. I refer to the institution of the court jester or fool. The last royal fool in England is thought to have been the one kept by Charles I, but the Earl of Suffolk had one as late as the eighteenth century. And Archbishop Laud was thought rather mean — unprincely, even un-English — for dismissing his fool on the grounds that he had been too outspoken. Laud's fellow princes had some reason to feel that the archbishop had let down the standards. For the function of the fool was precisely to be outspoken: to cut through the adulation with which the prince was surrounded, and speak the truth to him about anything or everything in his court — to keep him in touch with the reality beneath the illusions sedulously fostered by the court.

The sensible prince valued his fool highly and guaranteed his security; permitted, indeed encouraged, him to say what no one else in the court would dare to say. The prince knew that he needed this service, even though what the jester told him might often be immediately displeasing. And to get this service he knew he had to protect and support the jester and to make him a respected institution, beyond the indignant reach of anyone.

We no longer live in a world of princes and courtiers — we live in democracies — vast, fragmented, apparently amorphous bodies. We are supposed to be ruled by the sovereign people, not a sovereign prince (though it was not without reason that someone coined the phrase, centuries ago, "merchant prince", and that the phrase has stuck). I suggest that the sovereign people stands in as much need of a jester or fool as ever a sovereign prince did, and to perform the same function — to tell the truth, even when it is immediately displeasing.

A sovereign people, being so numerous, cannot make do with a single jester. It needs a multiple one. And this multiple jester must be made an institution under the protection of the sovereign people. Where else can we find, in a modern society, such a multiple institutionalized jester but in the institution of the university ?

How much protection and support by the sovereign people does this multiple fool need ? More, I suggest, than the single court fool needed from his prince. For the democratic sovereign people is

beset by more than one layer of courtiers seeking favours from the public purse. We rejoice in free enterprise, which offers the highest rewards to the enterprise of those who can use the favours of the government to increase their profits. The politicians — the successful ones, that is, who wield power in the name of the sovereign people — are thus put in the difficult position of trying to speak in the name of the people while having to assess what trade-offs they must make in order to get the resources needed to ensure that they will still be speaking in the name of the people after the next election. The politicians, that is to say, must double as representatives of the sovereign people and as courtiers of that sovereign. So we have two important layers of courtiers of the democratic sovereign, not to mention the whole array of interest groups which also exert not inconsiderable pressures.

The difference between the courtiers in a modern democracy and the courtiers of a mediaeval prince is evident. The earlier courtiers waited on the prince — they stood around the sovereign but were separate from him. The modern courtiers have managed to get inside the sovereign: they activate the sovereign people, speak in its name, and bear its authority (at least between elections). And to do so they must frequently make things seem other than they are; and they are in a position to do this much more efficiently than the old courtiers were generally able to do. All the greater need, therefore, for the sovereign people of every country and province to maintain a multiple fool, the university. And all the more support and protection the university needs from the people.

I need not tire you with any more reflections of this sort. Let me finish by saying that if I have one criticism of this gracious ceremony, it is that you did not think to furnish this cap and gown, symbolically, with bells, to mark me as a representative of the coming academic guild, the institutional fools of the democratic market society.

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Paul G. Swingle

ADMINISTRATIVE ORBITING

Paul G. Swingle is an associate professor of Psychology at McMaster University. In this article he deals with conflict structures and the dynamics involved in disruption on campuses.

Shortly after the termination through exhaustion of one of Canada's more unfortunate university conflicts, I was asked to participate in a seminar on university upheavals. The seminar principals were to include representatives from involved student groups, the faculty, and the university administration. In addition, several social scientists were invited to participate and comment on various aspects of interpersonal conflict. That the seminar was cancelled, mainly, as I understand it, because of a reluctance on the part of both parties to the conflict to deal with the problem rhetorically, is in itself a sad commentary. The following paragraphs summarize what I had planned to discuss at the seminar, and describe conflict structures and a few disturbing practices engaged in by parties to conflicts which serve to enflame the violence.

It should be recognized, however, that although behavioral sciences in themselves are in their infancy, the experimental study of conflict is in the zygotic stage. Generalization is always hazardous, of course, but generalizing from an infant discipline may be foolhardy. Perhaps all we can do at the present time is search for common structural elements in various fabricated as well as genuine conflict situations in an optimistic attempt to find the beginnings of a theory of conflict. However, a major contribution of psychological game research will probably be the development of a discursive nomenclature which will order the discouraging chaos in the conflict literature. This in itself should facilitate the development of a robust conflict theory. The generalizations I should now like to proceed to are less fragile than most concepts that have come from the laboratory studies of conflict.

There are of course many forms of conflict. The simplest form, ends conflict, usually defined as competition over scarce resources, or, more precisely, as competition over the distribution rights for scarce resources, is perhaps the most common and most widely recognized form of conflict. Individuals concerned with wages, power, status and so on are usually involved in such ends conflict.

A second form of conflict which is important but usually less volatile is referred to as means conflict. Faculty members serving on a curriculum committee, for example, may agree on the goal or end, which is the best education for the student, but may strongly disagree as to the best method of educating the student. It is usually the former type of conflict. ends conflict, which gives rise to volatile situations. The remainder of this paper will deal primarily with this straightforward type of conflict.

In any societal structure, individuals possessing the distribution prerogatives for the scarce resources have no interest in change and, as a matter of fact, are primarily concerned with maintaining the *status quo*. To accomplish this, they adopt procedures and establish machinery which serve to slow down if not completely inhibit communication and change. Plenipotentiaries, obviously having no interest in listening to grievances regarding resource allocation, use a variety of techniques to insulate the establishment from the communications of the challengers to the *status quo*. Individuals without distribution prerogatives, obviously, have no interest in stability. A fluid if not turbulent social structure is the only one in which they might gain greater control over the scarce resources.

Individuals challenging the plenipotentiaries, the establishment, in any societal structure must, implicitly at least, accomplish the following. First, they must determine their support, that is, determine the relative extent of their maximum threat. Protest marches can

provide important information as to the extent of the sympathy toward the petitioners' efforts. Secondly, the challengers must get the ear of the establishment. Third, they must negotiate the settlement and, incidentally, the term "negotiate" is meant to apply at any level of violence. Some of the unhappy terms used by the nuclear strategists, such as "countercity negotiation", exemplify the point. Finally, the challengers must monitor the change to determine whether or not the alterations in the structure have in fact occurred.

Assuming that the conflict between parties is legitimate, which means that the parties are talking about the same thing, recognize the goal over which they are competing and are legitimately concerned over either distribution rights or means to an end and not, for example, concerned only with notoriety, then the escalation in violence is related to: 1. the relative strength of the protagonists, 2. the sensitivity or reactivity of each group to the statements and gestures of the other party, 3. the patience of the challengers, or conversely, the sluggishness of the due process system, and 4. the existence of bargaining traditions.

The central issue in most conflict situations and in university upheavals in particular is the use of threat in bargaining. A threat is a statement or gesture of intention to penalize or do harm should a demand not be met. If the punishment threatened is unilateral, we are dealing with a paternal type of structure. If the punishment is bilateral (i.e., when threat is costly to both parties — the threatener suffers equally with the threatened), we are dealing with the game of "chicken". The "chicken-type" confrontation is the most common form of adversary engagement. Returning to the university situation, the major question is why threats are used in the bargaining process between the administration and the students. (I should add, incidentally, that I am considering the two parties to the conflict as being the administration and the students since the faculty tends to divide its allegiances, junior faculty tending to be sympathetic to the students, senior faculty tending to align themselves with the administration. It is generally believed that in most serious student-administration disorders, some faculty support of the students is in evidence.) The major reason why threats are used in such situations is that frequently administrations or plenipotentiary groups turn a deaf ear on factions within their institution which are requesting change. The deaf ear takes a variety of different forms, such as upper echelon administrators making themselves unavailable, not responding to inquiries or communications, or, the most frustrating system, accepting petitions and keeping them in a state of creeping progress (administrative orbiting) until the energies of the challengers are drained.

When threats are used and punishment is bilateral, combatants in the situation lose sight of the issues and start competing over the

intangible or symbolic issues such as "winning the contest", "being courageous", "being a man", etc. As soon as this happens, settlement is precluded as symbolic payoffs are not divisible. There can be but one winner. In addition, the use of threat has the effect of focusing the protagonists' attention on threat and counterthreat which has several consequences, two of which are of principal importance. First, protagonists tend to issue threats to deter the opponent from doing something he may have had no interest in doing in the first place. This of course encourages the opponent to demonstrate that his freedom has not been restricted. Hence, an act that in the first instance had a low probability of occurrence suddenly becomes highly probable. Second, when threats are used, protagonists attempt to outbid one another in threatened violence to force the opponent to yield. Such escalations in violence erupt into insensate, destructive episodes when the protagonists have no bargaining tradition upon which to rely. A bargaining tradition is a threshold or limit beyond which neither party ventures. For example, in the international situation, the nuclear/non-nuclear threshold is a salient limiter on the escalator of violence. Provided the threshold is placed high enough up the scale of violence, the countries attempt to outbid one another in violence up to that threshold at which time the tempo tends to decelerate and both parties to the conflict are in fact grateful that the threshold exists. There are some conflict situations in which there are no bargaining traditions and university situations are a prime example. Hence, once the escalation process starts, there are no agreed upon norms or standards or limits which serve to slow down the tempo of bargaining. At the upper ends of the escalator, the steps (i.e., increases in the intensity of the threatened violence) tend to be extraordinarily large. The tempo of bidding increases and thus the pressure on the leaders on both sides becomes enormous, increasing the probability of erroneous or irrational acts. Therefore, without limiters, threat-counterthreat spirals are extraordinarily difficult to stop.

The major reason that protagonists do not initiate de-escalatory moves, if we may assume that they are not overly concerned about the derisive cry of "chicken", is simply that the making of the concession may not be interpreted as a cooperative gesture, but rather as evidence of weakness. This encourages the unyielding party to expect and press for further concessions and eventually total capitulation. The problem then facing both parties to the conflict is how to make concessions without seeming to yield. Recent research has indicated that mediators may serve this function, provided they are brought into the conflict situation at a low level of violence, that is, early in the conflict situation. Parties to the

conflict can, by using the mediator, make concessions while maintaining control over their opponents' expectancies.

Although game behaviorists are frequently criticized for describing conflicts in terms such as those I have been using, I believe that it is essential for both parties to a conflict to understand the game they are playing. Such an understanding should encourage protagonists to resolve conflicts at a low level of violence. At higher levels of threat and violence, conflict may get out of hand so that, despite the best efforts of concerned persons on both sides, the issue is "concluded" only after one side has exhausted its destructive capabilities, frequently at horrendous cost to everyone, principals to the conflict or not.

One final point, when the establishment turns a deaf ear on low threat petitions for change, encouraging the petitioners to wrap their requests in an envelope of threat to get the ear of the administration, the establishment must not only expect an intensification of threat, but must accept equal responsibility with the petitioners for starting the spiral of increasing violence. A great many university disruptions can be traced back to low threat grievances expressed a year and, on occasions, two years prior to the occurrence of insensate or highly violent acts. It would seem obvious that university administrations would be well advised to establish workable machinery for dealing with grievances and petitions at low levels of threat and violence before negotiable situations become non-negotiable.

The above paragraphs refer only to situations in which grievances have been ignored by administrations usually motivated by a desire to drain the energy and resources of the petitioners, or in the naive hope that they will simply fade away, or, more simply yet, because of incompetence. It will be most interesting to see if the frequency of unreasonable demands by students decreases once administrations establish machinery for dealing with reasonable ones.

A.A.U.P.
LIST OF CENSURED ADMINISTRATIONS

Lowell Technological Institute	April, 1960
Alabama State University	April, 1962
South Dakota State University	April, 1962
Alcorn Agricultural and Mechanical College	April, 1963
Grove City College	April, 1963
College of the Ozarks	April, 1964
Wayne State College (Nebraska)	April, 1965
* St. John's University (N.Y.)	April, 1966
Amarillo College	April, 1968
Texas A & M University	April, 1968
Cheyney State College	April, 1968
Southern University and Agricultural and Mechanical College	April, 1968
Wisconsin State University — Whitewater	April, 1968
Troy State University (Alabama)	May, 1969
Northern State College (South Dakota)	May, 1969
Frank Phillips College (Texas)	May, 1969
Dutchess Community College (New York)	May, 1969
Central State College (Oklahoma)	May, 1969
Broward Junior College (Florida)	May, 1969
Detroit Institute of Technology	May, 1969
Southeastern Louisiana College	April, 1970
Indiana Institute of Technology	April, 1970
Indiana State University	April, 1970
Oklahoma State University	April, 1970
The University of Mississippi	April, 1970

* Owing to the extraordinary seriousness of the violation of academic freedom and tenure by St. John's University, the Fifty-second Annual Meeting of the Association approved an action of Committee A which states that, although "we do not recommend imposing an absolute obligation upon our members to decline appointments, we do feel that, in the case of St. John's University, it would be inappropriate for our members to accept appointments at St. John's University."

Theodore M. Hesburgh, C.S.C.

ACADEMIC FREEDOM in the CATHOLIC UNIVERSITY

This address was delivered by Reverend Theodore M. Hesburgh, C.S.C., President of the University of Notre Dame, when he was awarded the twelfth AAUP Alexander Meiklejohn Award in recognition of an outstanding contribution to academic freedom. This address is reprinted with permission of the editor, from the AAUP Bulletin, June, 1970.

I find it difficult to express adequately how very pleased, honored, and grateful I am to receive the Alexander Meiklejohn Award. May I also accept it in large measure as an award to the University of Notre Dame, and to all my academic associates there who cherish the implications of this award every bit as much as I do. My gratitude is to your whole Association in general, and to our Notre Dame Chapter of the AAUP in particular, for they have ever been generous and staunch allies. There has never been any doubt about where they stood whenever there was the slightest doubt that academic freedom might be jeopardized on our campus or in our country. Theirs has been a strength that has always been strongly communicated to our total academic community.

This year I am completing twenty-five years at Notre Dame as a faculty member and administrator. These years have seen many and

profound changes at Notre Dame and throughout American higher education. Most of us have been so busy looking forward that we have had all too few occasions to look backward, even to the fairly recent past. We hear often that our students think history began yesterday, and I fear we sometimes act as if they were right.

The Alexander Meiklejohn Award for Academic Freedom calls our attention to at least two things: First, that academic freedom is by no means a new concern in higher education. Safeguarding academic freedom has been a constant struggle in higher education since universities began and, in the broader sense, since men began to teach one another. In this connection, may I congratulate the American Association of University Professors on its eternal vigilance. I should like to say another word later on the special need for that vigilance today. Secondly, the award, by its very name, reminds us that American higher education has been blessed in its history with a number of educational giants, men of exceptional vision, energy, and talent to whom we are all greatly indebted. Alexander Meiklejohn is included among them. Lawrence Veysey in his brilliant book, *The Emergence of the American University*, writes, "In 1912 Meiklejohn was to become president of Amherst College and in that role mark out some of the fundamental directions for liberal education during succeeding decades" (p. 211).

I note from the list of previous winners of this award that I am the first representative of a Catholic university to be so honored. As a priest and theologian, I thought I might say just a word about the special meaning that academic freedom has for us in a Catholic university. (Incidentally, in 1967 we published at Notre Dame a book on this precise subject. Its title is *Academic Freedom and the Catholic University.*) Perhaps because of certain historical misunderstandings, we in the Catholic universities particularly are more sensitive to possible infringements on academic freedom than those who have not shared the same experiences and fought the same battles.

Academic freedom, like all freedom, is grounded ultimately in the nature of man and of society and of the development of knowledge and intelligence. Man's greatest genius and dignity, as well as his last best hope, are in his intellect and in his search for truth. In an imperfect and fallible world, man cannot, in fact, be man — he cannot be true to himself — unless he is free to follow any argument, any research, any point of inquiry, wherever it may lead. Those in the academy must be free to share their convictions and responsible conclusions with their colleagues and students, in their teaching and in their writing, without fear of reprisal.

Even if it should want to, which, of course, it does not, the Church could not impose its theological system on anyone. To accept the teaching of the Church is a free act or it is nothing at all. There

is no conflict between the goals of the Church and those of the university. These goals and objectives, in fact, complement one another. As was pointed out by Vatican Council II: ". . . the Church recalls to the mind of all that culture must be made to bear on the integral perfection of the human person, and on the good of the community and the whole of society. Therefore, the human spirit must be cultivated in such a way that there results a growth in its ability to wonder, to understand, to contemplate, to make personal judgments, and to develop a religious, moral, and social sense." [1]

At the close of Vatican Council II, it seemed important to me — in another capacity as President of the International Federation of Catholic Universities — to have Catholic universities worldwide clarify their commitment to academic freedom. We began by a meeting of North American representatives at Notre Dame's retreat in Northern Wisconsin. This resulted in what has come to be known as the 1967 Land O'Lakes Statement. May I quote three short passages from that statement:

> The Catholic university today must be a university in the full modern sense of the word, with a strong commitment to and concern for academic excellence. To perform its teaching and research functions effectively, the Catholic university must have a true autonomy and academic freedom in the face of authority of whatever kind, lay or clerical, external to the academic community itself. To say this is simply to assert that institutional autonomy and academic freedom are essential conditions of life and growth and indeed of survival for Catholic universities as for all universities.
>
> In a Catholic university all recognized university areas of study are frankly and fully accepted and their internal autonomy affirmed and guaranteed. There must be no theological or philosophical imperialism; all scientific and disciplinary methods, and methodologies, must be given due honor and respect. However, there will necessarily result from the interdisciplinary discussions an awareness that there is a philosophical and theological dimension to most intellectual subjects when they are pursued far enough. Hence, in a Catholic university there will be a special interest in interdisciplinary problems and relationships.
>
> The student must come to a basic understanding of the actual world in which he lives today. This means that the intellectual campus of a Catholic university has no boundaries and no barriers. It draws knowledge and understanding from all the traditions of mankind; it explores the insights and achievements

1. The Documents of Vatican II, Walter M. Abbott, General Editor (The American Press, 1966), p. 265.

of the great men of every age; it looks to the current frontiers of advancing knowledge and brings all the results to bear relevantly on man's life today. The whole world of knowledge and ideas must be open to the student; there must be no outlawed books or subjects. Thus the student will be able to develop his own capabilities and to fulfill himself by using the intellectual resources presented to him.

Concurrently with our Wisconsin meeting, other regions of the Federation met in Paris, Bogotá, and Manila, and the following summer all together for the Eighth General Conference of the Federation at Lovanium University in Kinshasa, Congo. To give you a flavor of this meeting, I shall only cite one paragraph of my presidential address:

> The university, therefore, is the very quintessence of the pilgrim Church in the intellectual order, seeking answers to ultimate questions in concert with men of intelligence and good will, drawing on all knowledges and every way of knowing and, especially, bringing every philosophical and theological insight to bear upon the monumental task at hand, whatever the source of these insights. This is no task for amateurs or dilettantes, nor for second-rate scholars or institutions less than first class. It is not a task that can be done without that intellectual climate of freedom that is the essential atmosphere of a university's research program, especially in theology. It is not something that can be accomplished in the face of arbitrary controls from outside the university's professional community of researchers and scholars.

I would like to add to all these fine words that academic freedom does not live by rhetoric alone. Each year brings its new crisis. When the battle seems newly won, hostilities break out on another front. It is not so much that freedom is fragile as that it must be won daily, and exercised daily and responsibly, by each one of us. Ignazio Silone puts it well in his book, *Bread and Wine:*

> Freedom is not something you get as a present .... You can live in a dictatorship and be free — on one condition: that you fight the dictatorship. The man who thinks with his own mind and keeps it uncorrupted is free. The man who fights for what he thinks is right is free. But you can live in the most democratic country on earth, and if you're lazy, obtuse, or servile within yourself, you're not free. Even without any violent coercion, you're a slave. You can't beg your freedom from someone. You have to seize it — everyone as much as he can. [2]

2. Ignazio Silone, **Bread and Wine** (N.Y.: New American Library, 1963), p. 43.

What Silone says of a person is also true of each institution. Which raises two most central questions for each of us and for each of our institutions today. I do not pretend to know the full answers, but I will pose the questions: (1) Are we making the best use of our academic freedom today ? and (2) Is the world around us developing a climate in which our freedom within will be increasingly disrespected, threatened, diminished, and, if possible, extinguished from without ? I believe that the two questions are not unrelated. In fact, if we answer the first question badly, we almost guarantee a bad answer to the second question.

As to the first, we need often to be reminded that academic freedom is not so much freedom *from somebody or something*, as freedom to do something, which raises the whole question of what universities should be doing today with their freedom. Alexander Meiklejohn might come back to haunt me if I did not insist here that we use our freedom to do something really creative and imaginative to reform and revivify liberal education which should be at once the guarantee and the crowning achievement of academic freedom. But beyond this urgent and general task that faces us, what of the particular use of our freedom to view our society critically and to exercise our best moral judgment on a whole host of pressing modern topics: The sacredness of human life, the dignity of man, human rights and human equality, the uses of science and technology, war and peace, violence and nonviolence, human as well as physical pollution, the quality, meaning, condition, and effectiveness of academic life, academic commitment, academic protest or protestation or, at times, posturing as we confront these vital issues which sometimes seem more important to our students than they do to us. I am not suggesting the politization of the university, but as a professional class of university men and women, do we effectively bring to our times the wisdom, the insight, the courage, and the moral judgment that should characterize our profession ?

As to the second question, I would remind you that as recently as last week a majority of Americans in a CBS News nationwide poll appeared willing to cancel five of the ten guarantees of our Bill of Rights. As James Reston has observed, "The uses of physical violence against the people, property, and institutions of the United States in defiance of the law have created a climate of fear in the country, and under the dominion of fear, a great many people now seem willing to choose order at the expense of their liberties, or at least at the expense of somebody else's liberties." [3]

The times call for vision and leadership to an extraordinary degree, and hope as well. The French have a saying that "fear is a poor counselor." I suppose that the obverse of that is a call to each of us to use our freedom with courage and, hopefully, with wisdom.

3. **The New York Times,** April 19, 1970.

ENSEIGNEMENT COLLÉGIAL

CHIMIE

DEUXIÈME ÉDITION

Par : Bruce H. Mahan, de l'Université de Californie, Berkeley

Texte français :
Philibert l'Écuyer et Marcel Lefrançois, de l'Université Laval

Il y a loin de l'atomisme des Grecs à l'actuelle théorie atomique de la matière développée par des chercheurs prestigieux comme Rutherford, Planck, Bahr, Einstein.

Le présent manuel de chimie générale s'adresse aux étudiants qui possèdent déjà les connaissances de base en chimie, les préparant aux cours plus approfondis et spécialisés.

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Les derniers chapitres contiennent la partie descriptive de la chimie minérale et organique. La façon de se comporter des éléments y est expliquée par la liaison chimique, la thermodynamique et la classification périodique imaginée par Mendéléev vers 1870.

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Vladimir Salyzyn

TAXATION and EDUCATION

The author is an associate professor in the Department of Economics at the University of Alberta. In his article Professor Salyzyn studies some of the possible implications of the tax proposals on students, teachers and administrators.

If the proposals of the federal government's White Paper on taxation are adopted they will have several important effects on education in Canada. The implications of these proposals on education are significant from the points of view of students, teachers, administrators and from the point of view of society as a whole. Among the areas of change recommended by the White Paper the following are the most relevant to education: the full taxation of fellowships, scholarships, bursaries and research grants; the taxation of adult training allowances; the removal of the exemption from taxation of salaries of professors and teachers who come to Canada for only two years; the application of the new income averaging formula; the implications of deduction for child care expenses; and the treatment of expenses incurred in "earning" income. The first three of these proposals apply directly to education, the last three are general proposals with special significance to students.

financial aid to students and scholars

The current practice is to exempt from taxation the funds received through fellowships, bursaries, research grants and scholarships if such funds are not related to any services rendered by the student or scholar. Where the receipt of all or a portion of the stipend is conditional to the performance of some service the conditional portion becomes taxable. The most significant forms of financial aid to education are the research and teaching assistantships normally received by university students at the graduate level. In these cases the students are required to perform certain services related to their training as instructors or researchers. Since the funds they receive usually exceed the normal return for such services, only a portion of each of the assistantships is taxable. The current practice is to assume arbitrarily that one-half the stipend is related to the services performed, leaving the remainder tax free.

The White Paper argues that there seems no valid reason for continuing such exemption. This contradicts the original intention of the tax exemption. The exemption was explicitly and deliberately designed to encourage Canadians to pursue further education. There is no question that there exists, as the Royal Commission on Taxation noted, a "generally held belief that Canada should encourage a higher proportion of its citizens to improve their education." [1]

The obvious implication of the proposal to tax all forms of fellowships, scholars, bursaries and assistantships at their full value is that it will reduce the incentive to continue further education unless the government uses the additional tax receipts to increase its financial aid to students in other forms. Should the federal tax remove more than is replaced from these sources the effect may be to discourage some students from continuing their education. If this turns out to be the effect, it is not only a cost to the student but represents a substantial loss to society in the form of social benefits derived from education. Not only does education improve the social and political environment but it also increases productivity, permitting greater national output and/or the increased enjoyment of leisure.

A more subtle effect of the proposal is that it will tend to penalize those provincial governments that spend relatively more on the encouragement of education. As the tax funds flow from the provinces to Ottawa through the students' tax returns, they will have to be replaced by the provincial governments if these governments wish to maintain a given level of incentive to education.

1. **Report of the Royal Commission on Taxation** (Ottawa: Queen's Printer, 1966), Vol. 3, p. 230.

Attempts to increase incentives would be subject to the same penalty. An example of the regional impact can be obtained by examining the role of financial aid to students in the Province of Alberta. Alberta has been encouraging higher education with some measure of success in the recent past. During the period 1951-52 to 1965-66 the rate of increase in university graduate students in Alberta has been nearly four times the rate of Canada as a whole. [2] This has come about primarily through the allocation of large amounts of funds to higher education. For example, during the 1966-67 fiscal year Alberta's expenditures on higher education were 14.9 per cent of the total of such expenditures in Canada. [3] This is approximately twice as much per capita as the national average.

During the fiscal year 1965-66 expenditures on scholarships and related items by universities in Alberta amounted to 16.7 per cent of total Canadian expenditures on these items. [4] This is more than twice the national per capita average. As a consequence, Albertans will have to pay more personal income taxes to the federal government than other Canadians if the White Paper proposals are accepted.

The Royal Commission on Taxation recommended deliberate concessions for post-secondary education that "would provide a much greater incentive for the vast majority of taxpayers than the present system of deductions." [5] The Commission recommended the full inclusion in taxable income of only those scholarships, fellowships or bursaries that are paid by an employer of the student. As an added special incentive, the Commission recommended generous tax credits for the living costs of students. The departure of the White Paper from the general tenor of the Commission's recommendations on education is to be regretted.

adult training allowances

The argument that guided the proposal for taxing student bursaries leads the White Paper to state that the same should be true of adult training allowances. This proposal directly violates the White Paper's expressed aims of reforming the tax structure in order to guarantee continuing economic growth and prosperity and to give recognition to modern social needs. If there is anything to be gained by providing strong incentives for adults to enter re-training programmes, it is that such training is indispensable to continued economic growth and prosperity in Canada. This is true even more so because of modern social needs. A growing number of adults are finding that their current jobs are leaving them completely ill-equipped for the

2. Wolfgang M. Illing and Zoltan E. Zsigmond, **Enrollment in Schools and Universities 1951-52 to 1975-76,** Staff Study No. 20, Economic Council of Canada (Ottawa: Queen's Printer, 1967).
3. **Provincial Finance, 1969** (Toronto: Canadian Tax Foundation, 1969).
4. **Canadian Universities, Income and Expenditures,** Dominion Bureau of Statistics (Ottawa: Queen's Printer, 1967).
5. **Report,** op. cit., Vol. 3, p. 232.

changing social, economic and technological environment around them. Too much concern with "unfair" tax advantage hardly gives due recognition to the current social and economic needs of Canada. Increasing the tax on adults desperately in need of job re-training also violates most people's concept of what is fair.

foreign teachers and professors

The White Paper proposed that the tax treaties that provide for the exemption of salaries from taxation of professors and teachers who come to Canada for only two years be removed on a reciprocal basis. The government ignored the incentive value of the current tax treatment and proposed to tax such persons the same as others. The original concession was deliberately designed to encourage international exchange of teachers and professors for the general benefit that accrues to society as a whole from such an exchange. The value of this international exchange of teachers and professors has never been seriously questioned on scholarly grounds.

It is possible, however, that the cost in tax concessions could exceed the social and economic value of the exchange. The loss of revenue resulting from giving tax concessions to those who came because of the concession must be weighted against the number of those who would have come without the incentive. There is no way of being sure that the net gain is positive, but the removal of the concession will without doubt reduce the incentive for foreign teachers and professors to come to Canada. The White Paper has entered, intentionally or otherwise, the arena of debate over the desirability of "foreign" scholars in Canada.

The argument used in the White Paper to support the proposed change appears to be irrelevant whether one views the change as a means of increasing equity or as a removal of an ineffective incentive. The White Paper claims in the defence of its proposal that the present salaries of professors and teachers make the concession unjustified. If this means that current salaries are higher than they were when the concession was first introduced, then the White Paper must be simply arguing that the exemption of low taxable income is more equitable than the exemption of high taxable income. If the statement means that Canadian salaries of university professors and teachers have increased much more rapidly than corresponding salaries in the countries with which Canada has the treaty (and that we can attract foreign professors and teachers just as easily now without concessions), the White Paper may have the facts all wrong.

income averaging

Several proposals in the White Paper are not directly related to education but can have special effects on university students. These

are: the income averaging formula, the deduction for child care expenses of working parents, and the treatment of expenses incurred in earning income.

Current legislation permits the averaging of income for tax purposes only in a few cases. For example, farmers and fishermen can average their income for tax purposes over a five-year period. They have the option of choosing any block of five years but no year can be used twice for averaging. Authors may average income over two years if it took them two years to produce the income. Income that took three or more years to produce can be averaged only over three years. Several types of lump-sum payments are given special treatment. In these cases taxpayers may apply a rate of tax to the lump-sum receipt that is equal to the ratio of taxes paid to income earned during the past three years. No other taxpayers are allowed to average their income. Although students are among those who often have wide fluctuations in earnings, they are not able to average their income under existing rules.

The White Paper proposed that income be averaged by all taxpayers according to the following rule: "When the income in the taxation year exceeds the average of the taxpayer's income in the preceding four years by more than one-third, the excess income would be taxed as though it were subject to a graduated rate schedule in which the income brackets to which each rate applied were five times as wide as normal." [6] This proposal is identical in principle to the income tax averaging provision employed in the United States. The Royal Commission on Taxation recommended against this form of averaging because the conditions under which this type of proposal "bestows relief are exceedingly capricious." [7]

Students, almost without exception, have a year in which their income exceeds the average of the previous four years, but they are unlikely to benefit from the proposed averaging formula for several reasons. For example, persons under 25 would be permitted to use the formula in a fifth year only if they had paid taxes in each of the preceding four years. If the student is married, he would require four consecutive years in which he was not claimed as a dependant by his spouse to qualify for averaging in the fifth year. The student could, if it were to his advantage, assume for calculation purposes that he earned $5,000 per year in the years in which he had no taxable income or was a dependant. The admission by the White Paper that the rules are not wholly satisfactory gives little solace to the student who cannot take advantage of the formula at the time when he earns his first full year of income.

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6. E. J. Benson, Minister of Finance, **Proposals for Tax Reform** (Ottawa: Queen's Printer, 1969), p. 23.
7. **Report,** op. cit., Vol. 3, p. 269.

A study was made of the probable impact of this proposal on the graduating class of the Faculty of Business Administration and Commerce at the University of Alberta. These students were asked by questionnaire to give their total annual income (including bursaries, fellowships, etc.) for the four years 1966 to 1969 and to estimate their income for 1970 and 1971. The students were also asked to indicate the years during which they were income tax dependants of their spouses and to give their ages. Just over one-third of the students responded to the questionnaire (58 out of a class of 172).

Of the expected incomes reported for 1970, 51 exceeded the average of the taxpayer's income in the preceding four years by more than one-third. The corresponding figure for 1971 was 55. Thus, 106 out of 116, or over 91 per cent, of the incomes in 1970 and 1971 would normally be eligible for averaging. However, because of the rule that a person who was under 25 years of age could use only an unbroken series of years since the last year in which he had no tax to pay, the number of opportunities for averaging would drop to 62. Eight more of the incomes would have been excluded from averaging because the students were dependants of their spouses at some time during the 1966-69 period.

The White Paper proposal would allow the student to assume for averaging purposes an income of $5,000 for any year that was excluded because of the age or dependency restriction. This rule would restore the opportunity for averaging to 20 of the incomes reported for 1970 and 1971. The net result of the full application of the averaging proposal is that, of the 106 incomes reported for 1970 and 1971 which were high enough for averaging, 32 would still not be averaged, of which 27, or over 25 per cent, because of the age limitation on eligibility.

child care expenses

Another proposal would permit a tax deduction for child care expenses "when both parents are working, or when there is only one parent in the family and she or he is working." [8] The reason given is that such a deduction is desirable on social as well as economic grounds. These grounds, it would appear, were not strong enough to include the children of students attending university full time while their spouses worked to support the entire family. Students that were able to earn some income by "working" would not only increase their income but would also qualify for the deduction of child care expenses. A student that only "studies" would be hit from both sides. Under another proposal discussed

8. **Proposals**, p. 15.

previously the student with an assistantship would be taxable on the entire stipend, whether it was earned or not, but when it comes to applying the rule for child care expenses the total allowed would be no more than two-thirds of the earned income of the parent with the lower earned income. The White Paper's concern with the "problem of adequately caring for children" [9] was less a concern with children and more a concern with the social and economic ethic of work.

A survey study was used to determine the effect of using only the "earned income" of the student or his spouse in setting the limit of the allowance for child care expenses rather than using total income subject to taxation (earned income plus financial aid to students). A questionnaire was sent to all graduate students at the University of Alberta to obtain information related to the application of the deduction. Out of the 304 graduate students that returned the questionnaire with usable answers, 65 indicated that they were parents of one or more children.

TABLE 1

Relative earned income of spouses and of graduate students with children and total income [1] *of graduate students, University of Alberta, 1969-1970*

(SOURCE: Survey of 304 graduate students at the University of Alberta.)

No. of graduate students with no spouse	1
No. of graduate students whose spouses have lower earned income	39
with zero earned income	30
with greater than zero earned income	9
No. of graduate students with earned income lower than the earned income of their spouses	25
with total income less than earned income of spouse	1
with total income more than earned income of spouse	24
No. of graduate students with children	65

[1] Earned income plus unearned financial aid proposed for taxation by the White Paper.

Some of the results of the survey are tabulated in Table 1 and show that in 25 out of the 65 cases it is the earned income of the student rather than the earned income of his spouse that would limit the amount that could be deducted for child care expenses. However, in all but one of these 25 cases the higher earned income of the spouse could have been used to increase the amount of the deduction allowed if the total income of the student was used rather than only his "earned income." Table 2 shows that in 80 per cent of the cases, the maximum deductions allowed are reduced by 50 per cent or more because the students' earned incomes are not used in determining the maximum level of the allowance.

9. Ibid., p. 15.

TABLE 2

Per cent of total income of graduate students usable as limit for child care expenses deductions, University of Alberta, 1969-1970
(SOURCE: Survey of 304 graduate students.)

Earned income as per cent of total income	Number of graduate students
0	3
1-25	0
26-49	8
50	9
51-75	2
76-79	2
100	1

expenses of earning income

A related proposal would provide for a standard deduction of "expenses incurred in earning employment income" [10] of 3 per cent of gross employment income up to $150 per year. A student who normally obtains only a fraction of his taxable income from "employment" would be entitled to a smaller deduction than one with the same taxable income who obtains all of his income from employment.

The graduate student survey used to examine the effects of child care expenses also included questions that revealed the extent to which deductions for employment expenses could be used. Because the amount of deduction allowed depends only on income earned through employment rather than all of the income of the student, 86 per cent of the 304 students would be permitted to count no more than one-half of their total income in the calculation of the employment expense deduction, and over 12 per cent would not be able to deduct any amount for employment expenses whatsoever (see Table 3).

The White Paper criticized the Royal Commission on Taxation for being too extreme in its overall approach to equity. And yet, the White Paper's proposals dealing explicitly with education are more extreme than those of the Commission. While the Commission selected education as an area requiring special incentives (at the cost of some reduction in equity), the White Paper not only ignores the incentive argument but its very approach to equity is not always fairly applied.

10. Ibid., p. 16.

TABLE 3

Per cent of total income of graduate students usable as base for employment expenses deduction, University of Alberta, 1969-1970
(SOURCE: Survey of 304 graduate students.)

Earned income as per cent of total income	Number of graduate students
0	37
1-25	43
26-49	76
50	106
51-75	20
76-99	5
100	17

The White Paper's argument "that people in similar circumstances should carry similar shares of the tax load" [11] is applied in such an unbending and mechanical way that leads it implicitly to make unacceptable proposals. Although the income averaging formula, the deduction for child care and the allowances for employment expenses broaden the criteria that determine "circumstances," and make them more meaningful, they discriminate against the special circumstances of students and therefore against incentives to education.

11. Ibid., p. 6.

C.A.U.T. PRESIDENTS — PRÉSIDENTS DE L'A.C.P.U.

1951-1952	F. A. Knox, Political and Economic Science, Queen's University
1952-1954	F. S. Howes, Electrical Engineering, McGill University
1954-1956	V. C. Fowke, Economics, University of Saskatchewan
1956-1958	H. W. McCready, History, McMaster University
1958-1959	C. L. Barber, Economics, University of Manitoba
1959-1960	H. M. Good, Biology, Queen's University
1960-1961	J. H. Aitchison, Political Science, Dalhousie University
1961-1962	A. W. R. Carrothers, Law, University of British Columbia
1962-1963	Émile Gosselin, Social Sciences, Université Laval
1963-1964	R. W. Torrens, French, University of Western Ontario
1964-1965	Bora Laskin, Law, University of Toronto
1965-1966	Jacques St-Pierre, Mathematics, Université de Montréal
1966-1967	Gideon Rosenbluth, Economics, University of British Columbia
1967-1968	Howard McCurdy, Biology, University of Windsor
1968-1969	Brough Macpherson, Political Economy, University of Toronto
1969-1970	Willard Allen, Chemistry, University of Alberta
1970-1971	J. Gordin Kaplan, Biology, University of Ottawa — Université d'Ottawa

BRIEF on TAXATION

This brief was prepared by the C.A.U.T. committee on Taxation and submitted to the Standing House of Commons Committee on Finance, Trade and Economic Affairs last March. The authors of this brief are Professor Kenneth F. Byrd, McGill University, and Professor Robert Bertrand, Université de Montréal.

The two areas of the White Paper that particularly concern the university teacher are:

Paragraphs 1.32 and 2.10 — Deductions for employment expenses.

Paragraphs 1.37 and 2.24 — Proposed taxation of fellowships, scholarships, bursaries and research grants.

the teacher as professional

In a submission by this Association to the Royal Commission on Taxation, a strong plea was made for the treatment of university teachers as highly skilled, professional persons, practising their profession in the only way possible for them i.e. as members of the academic staff of a university. It is only certain professors with professional diplomas — architects, lawyers, chartered accountants — who have any alternative means of practising their profession. A professor of English or French or History, for example, can carry out his main objects of teaching and research only by joining the academic staff of a university — he has to become an employee. He cannot run a university either on his own or in partnership.

the meaning of "business"

In these circumstances it seems reasonable that the significance of "business," in section 139 (1) (e) of the Income Tax Act, should be expanded to cover specifically the case of the university teacher as an employee. We have been officially notified that, in the United

States, "business" includes the performance of business services by an employee.[1] Certainly this seems justifiable where, as in the case of the university teacher, his career is dedicated (a) to educating other adult persons for their careers and (b) to carrying out research in the area of his particular discipline. The point is that, to quote the submission to the Royal Commission, "in their unique professional circumstances as employees, the essence of the activities of university teachers is the maintenance of their scholarship." They may, from time to time, write books and so earn some non-employment income, but in general most of their income will come from their necessary employment.

a distinctive position

This question of practice in a profession is so fundamental that it must be pursued further. The distinctive characteristic of practice in a profession is the exercise of personal skills in "some branch of learning or science" (Concise Oxford Dictionary). The practising professional man must have autonomy; he must be able to make his own decisions without being subject to the dictates of an employer. Holding himself out as possessing the skills required for the particular subject that he teaches, he must make decisions for which he must accept full responsibility. Or if he shares the responsibility with other faculty members, it is much as if their association with him is that of partners in a professional practice.

teacher as employee

The possession of these qualities distinguishes the university teacher from other employees. The university as employer does not fit the classification of "master" in the normal relation of master and servant. The employment has no aims of profit making. It exists simply to enable highly skilled persons, who individually have no means of imparting their knowledge, to join together in faculties for educative purposes. The governing body, the university teacher's legal employer, is largely made up of laymen with no responsibility or qualification for making academic decisions. It exists essentially to provide the administrative means for carrying out the university's academic purposes.

employment expenses

The Royal Commission placed first emphasis on the requirement that, to be deductible for income tax, expenditures must be "reasonably related" to the gaining of income.[2] "The positive side of this rule is that all expenditures reasonably related to the gaining or

1. See U.S. Treasury Department letter, Jan. 2, 1963, Exhibit A.
2. **Report of the Royal Commission on Taxation,** Vol. 3, p. 83.

producing of income should be deductible, the negative side is that any expenditures not so related should not be deductible." Believing that "the best way to achieve an equitable treatment of expenses related to employment is generally to apply the same rules to these expenditures as are to be applied to business expenditures" (p. 86), it recommends withdrawal of the present prohibition on deductions from employment income. Its suggestion of a maximum deduction of $500, on the basis of an optional standard deduction of 3% of employment income, is a recognition of the administrative problems involved. But it does also recommend "that the employee should be entitled to substantiate a larger deduction if he can do so." It is the contention of this submission that the university teacher, as a highly skilled, professional person carrying out his professional duties in the only way possible for him, should be entitled to deduct, without limit, reasonable expenses connected with the university employment.

costs of academic practice

The university teacher must constantly make decisions and take actions, in the course of his teaching and research, which will cost him money which will not be reimbursed. Like any other professional man he may be expected to incur those costs which he deems necessary for the maintenance of his professional status. This was never more true than it is in the rapidly changing conditions of the present day. Without any special requirement in his contract of employment, the university teacher is expected to incur the costs of keeping himself efficient and to decide for himself what those costs must be.

The recognition of professional membership dues, under section 11 (10) (a) of the Act, as deductible from employment income, concedes the validity of the claim that expenses necessary for maintenance of professional status should be deductible for tax purposes. The removal, in 1957, of the initial restriction that payment of the professional dues must be specified in the employment contract recognized the validity of accepting the professional decision of the employee. But the deduction should clearly not be restricted to professional dues.

professional expenses

Comparable expenses that should be deductible on like grounds include the following:

(1) Subscriptions to professional journals;

(2) Subscriptions to Learned Societies;

(3) Costs of sabbatical leave for research or teaching purposes;

(4) Costs of books purchased for teaching or scholarship purposes;

(5) Costs of attending meetings of Learned Societies;

(6) Costs of research work not reimbursed;

(7) Costs of summer school refresher courses;

(8) Costs of robes, gowns, lab. coats;

(9) Costs of study in the university teacher's residence, as essential for the proper performance of his professional duties;

(10) Costs of travel and extra living expenses through summer employment as visiting professor for teaching and/or research in another university.

a case

Letters are constantly being received by the Association from members who find themselves hard hit by the tax requirements, at the very time when their dedication to their profession induces them, often at a reduced salary, to take sabbatical leave and incur heavy travelling and living costs for the carrying out of research. One such letter, received in late December, 1969, states the position as follows:

> "The financial aspects of taking a sabbatical are somewhat horrifying. In my case, even if I obtain the most rewarding fellowship that is available, between my wife and myself we shall have a minimum loss in income, over the year, of $6,000. Additionally we have been told that there is no hope of obtaining an economic rent for our house and we must accept a loss of approximately $2,000 over the year. We will be spending the sabbatical in London, England, and inquiries indicate that, if we wish to be reasonably certain of decent educational standards, for at least our boys, then we will have to meet a further additional expenditure of some $1,500. Added to that I will have to carry the pension commitments as though I were receiving full salary and all other commitments that we have, that are based on full salary, have to be carried. There are other losses to be met which are less evident, connected with the necessity of storing possessions, including cars. We will also have to pay a high rent, since we will need furnished accommodation, which seems to command a premium.
>
> "The essence of this is that the direct additional costs of taking a sabbatical may run close to $10,000 a year."

This professor is, of course, primarily concerned with the proposals of the White Paper to tax the fellowship, by which the sabbatical is financed. But even if the fellowship is taxed, the present law, and that proposed by the White Paper, allows virtually no deduction of costs from the financing fellowship grant, and he estimates the cost to him at $10,000 for the year. In such circumstances the penalising tax requirements tend simply to stop the very research work by which a university not only justifies its existence but contributes to the general good of mankind.

costs of a study

It is an established principle that a professional man may deduct, from non-employment income, reasonable costs for the use of his study in his own residence. For the reasons already stated, the university teacher, as a professional man, should be regarded as carrying on his profession in the constant use of his home study for the preparation of lectures and the carrying on of his research. In the case of many university teachers this is quite a considerable continuing expense.

In the United Kingdom the Association of University Teachers, many years ago, made this very point in its submission to the Royal Commission on the Taxation of Profits and Income. As a result, if the university teacher can show the necessity for the use of a separate room as a study in his residence, in the performance of his duties, he is allowed to claim a deduction from his employment income for a reasonable portion of the rent (or annual value) and property taxes applicable to the room, and also for the incidental costs of lighting, cleaning, heating, etc. The amount of the deduction will depend on the extent of use of the room in the performance of the university teacher's duties and for other purposes, respectively (see Exhibit B, Association of University Teachers, C72a, October 1959).

attending learned societies

In view of the White Paper's proposals, in paragraph 5.9, to deny deduction for the costs of attending conventions, even in the case of taxpayers who are practising their profession, particular stress must here be placed on the distinctive circumstances of university teachers. In our submission to the Honourable Mitchell Sharp, on the Report of the Royal Commission on Taxation, we stated the position as follows :

"*Convention Costs*

> "The same considerations apply to convention expenses, including all the costs of transportation, meals and residence.

It is probably not well enough understood that there are great differences, from university to university, in the financing of these expenses. Some universities are well able to defray these costs and do so for all academic employees, sending them to conference and committee meetings across Canada quite freely, at university expense. In other cases, though a good teacher will feel it his duty to attend the meetings of the Learned Society of which he is a member, he can actually attend only at his own expense, since he has no university budget available to him.

"This does, in fact, prove to be quite a costly expense for university teachers, particularly where they are members of professional bodies, as in the case of doctors, lawyers, chartered accountants, architects, or engineers. It is essential that the reasonableness in principle of the claims for deduction of these costs, on a really liberal basis, shall be accepted by the Department, the costs themselves being supported by satisfactory vouchers.

"In this connection this Association supports the minority recommendation of Commissioner Beauvais (Vol. 1, pages 58/9) against the fixing of specified limits for conference registration fees and daily rates of entertainment expenses, meals and lodging."

expenses through summer employment

This Association is frequently presented with appeals from university professors who travel to universities other than their own, to teach in summer schools or carry out research. In the pressures of demand in the present day such summer teaching seems likely to grow up rapidly. It includes the offering of short periods of full-time study, preferably in residence on the campus, for students such as school teachers or, perhaps, chartered accountants-in-training, whose main studies may have been done on a part-time, or even a correspondence, basis.

The point is that the visiting professors are filling a very real need. Yet at present, unless the university specifically reimburses them for their costs of travel and their extra living expenses, these costs have to be made good out of their summer school remuneration which is, nevertheless, subject to full taxation. For the travelling and living costs are regarded as living expenses and are disallowed as deductions for income tax.

a case

A specific case, cited by the Association to the Royal Commission on Taxation, is that of a Professor of History at Memorial University

of Newfoundland who taught, in the summer, at the University of Saskatchewan, receiving $450 remuneration. His costs of getting to Saskatchewan and living there were $381, including $157 for meals. Excluding this as personal expenses, the remaining $224 was for travelling and rent, which duplicated the living costs of the professor's home in St. John's. On a net income of $226, therefore, for a month's summer lecturing, the amount of tax paid was $170, based on the gross income of $450.

It seems ridiculous, in such a case, to treat the travelling expenses as initial costs of getting to the place of employment under a "master and servant" contract, regardless of the length of the contract. The absurdity is seen when it is considered that the $224 for travelling and rent might have been reimbursed by the university, a separate cheque being paid for the remaining $226, as lecturing fees. In this case only the latter would have been taxed as income. Logically, however, even then, presumably, the $224 expenses might have been added back and taxed, as a benefit received, under section 5 of the Income Tax Act.

It would be wholly equitable, in any case, to avoid dependence on the manner of payment by the university, for a provision to be made in the Act for deduction of the travelling and duplicated living expenses. If such a professional teaching contract were defined by the Act as satisfying in the definition of "business," as in the United States, the expenses would be deductible and the demands of equity satisfied. Here, if anywhere, is a case which would justify specific deduction, as recommended by the Royal Commission on Taxation in Canada, in addition to the maximum deduction for all employees (see paragraph 7 above). By undertaking such summer lecturing or research, away from his own campus, the university teacher gains the broad experience which makes him a better professional man, and he is encouraged to do it by his own university. He should not be penalized financially in the process.

conclusion on deductions

In paragraph 1.32 of the White Paper it is stated that the "government has found no practical way to permit employees to deduct actual costs as do those carrying on a profession or other business." The resulting proposal of paragraphs 1.32 and 2.10 to allow a general 3% deduction from employment income, up to a maximum of $150 a year, clearly aims at avoiding the administrative problem and is meant for the 6,500,000 persons most of whom earn less than $10,000 a year, as the White Paper indicates. In recommending a much higher maximum deduction of $500 the Carter Commission recommended that each taxpayer be entitled to substantiate

a larger deduction. This Association urges the adoption of this recommendation. Alternatively, it recommends extension of the meaning of "business," in section 139 (1) (e) of the Income Tax Act, to cover specifically the teaching and research done by a university teacher, as a faculty member of a university,

The recent Exchequer Court decision in Alexander *v.* Minister of National Revenue, as discussed by Gwyneth McGregor, editor of the *Canadian Tax Journal* of the Canadian Tax Foundation, seems very much to the point.[3] The president of the court, Mr. Justice Wilbur Jackett, stressed the distinction between an employee, subject to a *contract of service*, and a self-employed man under a *contract for services*. The appellant, in this case, was a radiologist under contract to a hospital. Although he carried on his work "exactly as he would have done if he had been an employee," his administrative functions were similar in character to those performed by medical chiefs and practising doctors who were not employees. Furthermore, he was obliged to provide "coverage" for his work whether or not he could do it personally. The court concluded that his was a contract for services, so that his travelling expenses on hospital business became deductible for tax purposes, even though they included travelling between his home and a university in another town for regular seminars to keep up with developments in the field of radiology.

university scholarships

The White Paper proposes, in paragraph 2.24, to tax university research scholarships, bursaries and grants for research.

Such grants are at present non-taxable if they are not associated with personal services. The Canadian Association of University Teachers recognizes the concern or preoccupation with equity which prevails throughout the White Paper. From this point of view it is possible to conclude that university scholarships like the stipends paid to members of the Commons and Senate should be taxed exactly like any other form of revenue. It would seem, however, that the Government has made only a superficial analysis of the matter ignoring the underlying factors which have justified and, in our opinion, continue to justify the exemption accorded to research scholarships and university grants. We give the following as a fundamental case to justify continued exemption.

Exemption as an Allocation for Expenses

When university grants are made to allow a university professor to follow studies or research in another university or another town, there are always a number of expenses which the Minister of

3. Reported in the **Financial Post**, Feb. 7, 1970, p. 12.

National Revenue classifies as personal expenses but which, in reality and in equity, are truly expenses directly attributable to the grant received. Suffice it to mention the expenses of moving and changing residence. Similarly, the fact of pursuing studies or research in another town results, for the recipient of the grant, in extra expenses even if they may seem to be personal expenses which, nonetheless, are directly attributable to the fact of fulfilling the conditions of the grant. Take, for example, the frequent situation of a professor who incurs losses on sub-letting his lodging or, perhaps, on letting his own residence in his absence, when often he must pay a much higher rent in the city in which he temporarily carries on his studies or research. Studies or research also necessitate buying books and equipment, costs which the government refuses to recognise as existing or necessary. It it is logical not to recognise all these expenses as deductible when a grant is accepted as non-taxable, it seems to us equally logical, if it is intended to tax such grants, not to close one's eyes to reality but to recognise that there are costs and expenses directly attributable or associated with these grants. It should be added, perhaps, that if fiscal equity justifies the taxing of such grants the government should not mention the equity only when the final results have the effect of increasing its revenues, but it should also follow the principles of equity when they have the effect of diminishing its revenues. Unhappily the impression given by the White Paper is contrary to this. It cannot be equitable to tax the grants without allowing deduction of the expenses which are bound to be incurred. Since the White Paper proposes not to allow deduction of the expenses it should not propose to tax the grants.

Source and Utilisation of University Scholarships

University scholarships for study or research are at present derived either from government organizations or from private organizations which, for the most part, are not subject to tax. Whatever the source, whether public or private, the funds destined for studies or research are necessarily limited and could not be rapidly increased. Following the taxation of scholarships and grants they would have to be increased to take account of the tax if the same objectives were to be reached. Before government organizations adjusted themselves to this new way of looking at things, there would of necessity be a lengthened period during which the available funds would not be increased and consequently there would, in effect, be fewer scholarships or grants. It is precisely this period of transition that frightens the members of our Association. It frightens them all the more because Canada is giving evidence of being markedly behind in the matter of research. To the extent that the scholarships and grants come from provincial authorities,

subjecting them to taxation transfers funds from provincial to federal authorities. The provincial authorities necessarily have limited resources, with a result that could be termed a reduction of investment in education and research. An almost identical reasoning applies when scholarships and research grants come from private organizations or foundations.

Nationalism and Neutrality on an International Scale

Considering that the tax on income is paid by all residents, we must conclude that subjecting scholarships for study and research to Canadian taxation puts a premium on expatriation, encouraging the pursuit of study and research abroad rather than in Canada. From a like point of view, the scholarships for study and research offered by foreign countries are not taxed in those countries, a consideration which makes all the more attractive any sojourning and prolonged periods of research abroad. This is not a political objective which seems to us to be justified, considering the necessity for developing our teaching and research institutions in Canada.

In the United Kingdom the situation is the same as at present in Canada, but the balancing of advantages would be easily upset with the taxation by Canada of scholarships for study and research. The problem could become all the more serious if the government intends to submit the Canadian scholarships granted to non-residents to a tax of fifteen (15) or twenty-five (25) per cent. The fiscal system, more precisely the treaties or conventions signed by Canada, would not be neutral, in the sense that they would discriminate against the country in which the studies or research are pursued, a discrimination which has no economic foundation.

In the United States, section 117 of the Internal Revenue Code expressly anticipates the exemption of scholarships for study and research as well as amounts received to defray those expenses of travel, research, clerical assistance, or equipment which are incidental to such scholarships for study and research.

teachers from abroad

In paragraph 2.26 the White Paper announces its intention to remove the exemption granted hitherto, under conventions with Britain, the United States and other countries, in respect of salaries paid to professors and teachers from abroad for teaching in Canada for up to two years. It is stated that, in some cases, tax may not be payable in the country of normal residence. While Canadian exemption may, in itself, not be justified on logical grounds, it must be remembered that considerations of costs of removal, house rental, and travelling expenses must apply here equally with the cases of scholarships for study and research already cited. While

section 2.15 of the White Paper proposes a deduction for moving expenses, which would apply in such circumstances, all would depend on the liberality of interpretation of the expenses, in such a case.

In general the attraction of such teachers from abroad may well be considered of great benefit to Canada, for its importation of new ideas and the broadening and modernizing of our teaching concepts. Certainly the removal of this exemption, together with the proposed taxation of scholarships and research grants, will strengthen the impression that Canada is reversing its traditional policy of welcoming new ideas in education and encouraging Canadians to do research abroad. Its reference to "the present scale of salaries of professors and teachers" makes all the more evident the failure of the White Paper to take proper account of the extra expenses necessarily incurred during the period of temporary expatriation.

pension and retirement savings

In paragraph 2.52 the White Paper proposes "that to qualify for the tax-free status of registered pension plans or registered retirement savings plans, these plans must invest no more than 10% of their assets in foreign securities or other foreign investments." This suggestion is of particular concern to this Association as is evident from the following extract from its submission of October, 1967, to the Honourable Mitchell Sharp, then Minister of Finance, on the recommendations of the Royal Commission.

"Under the present Act, such distinctive plans as the Teachers Insurance and Annuity Association (TIAA) and the College Retirement Equities Fund (CREF), in the United States are not open to individual Canadian residents, *under the registered retirement savings plan*, because neither of them does business in Canada. However, Canadian universities may, and a number of them do, authorise the use of TIAA-CREF annuity contracts within their normal registered pension funds. This applied, for example, to the University of British Columbia up to June 30, 1967, and it applies still to Victoria University, B.C., and some others. Yet if these universities continue to allow their teachers this option, the planned integration of corporation and personal taxes (a generally acceptable and fundamental proposal of the Commission) will see dividends received from CREF, by the Canadian trustees, not qualifying for the 50% tax credit, thus considerably reducing the accumulation in the fund. For virtually all the investments of these funds are non-Canadian and the Commission proposes that not more than 10% of the income of a registered fund shall be from foreign sources. Hence it would seem that TIAA-CREF

and other such plans could no longer be adopted, even for a university's normal retirement plan.

"Since the TIAA-CREF plan would be deemed non-registered, any benefits received, in excess of the taxpayer's own contributions, would be taxable in full, subject to a foreign tax credit for tax withheld. The past election to invest in these funds has been made in order to obtain the benefit of higher dividends from outside Canada, particularly from the United States. Quite apart from preventing future investments abroad, it would be grossly inequitable to penalise the holders of interests in these funds, by forcing them to sell any foreign securities. TIAA-CREF would no longer be available for pension investments in Canada." A footnote pointed out that a particular attraction of the CREF, with its variable annuity geared to the cost of living, was that it afforded a hedge against inflation, while insurance companies in Canada were only just beginning to offer such variable annuities.

Information now received from the president of the Faculty Association of the University of British Columbia indicates that nearly one-quarter of its membership is still on TIAA. Now the White Paper proposes to implement the recommendations of the Royal Commission and, in effect, ban the TIAA-CREF, and all such investment of funds outside Canada, not only for the registered retirement savings plans, as at present, but also for registered pension funds themselves. The implications of this proposal, to the detriment of the large number of university teachers whose pension funds are already invested in these United States institutions, which are concerned solely with pensions for university teachers, are extremely serious. It is clear that, at the very least, university teachers already on the TIAA-CREF plan should be allowed to continue their investment, while retaining all the exemption benefits under the Income Tax Act.

It is also to be noted that the White Paper proposes to go further than the Royal Commission, which proposed only to withhold from pension funds the 50% tax credit for dividends received from *non-Canadian* corporations. Paragraph 2.47 of the White Paper "believes that the tax free trusts for retirement plans should not be entitled to the credit for corporation income tax proposed for dividends on shares in *Canadian* corporations. Freedom from tax on dividends and interest and capital gains should be sufficient." This is, surely, far too sweeping a statement. For employees it must be remembered that the exemption limits for contributions to pension and retirement savings funds combined have, for over 20 years, been fixed at a maximum of $1,500 per annum, with no regard whatever to the drastic effects of inflation. Neither the Royal Commission nor the White Paper proposes to do anything about

inflation. Now, then, can it be considered equitable to disallow to pension funds the tax recovery rights of other recipiens of dividends from Canadian corporations ? This Association urgently recommends that pension funds in receipt of Canadian dividends be given the same right of tax recovery as other Canadian recipients, in accordance with the recommendations of the Royal Commission. The fact that payment of tax on such dividends will be deferred, in the case of pension funds, does not mean that it will not ultimately be paid and there is no logical justification for abandoning, in this case, the planned integration of corporate and personal income taxes so fundamental to the proposals both of the Royal Commission and the White Paper.

The implication, in paragraphs 2.49 and 50 of the White Paper, that, at some future time, the limits for tax-free savings funds may be set rather in terms of the benefit provided on retirement than of the individual's annual contribution to the fund, raises the question of the amount of any such limit, having regard to the problem of inflation — more urgent today than at the time of the Report. This brief therefore concludes with the following extract from the Association's submission of October, 1967, to the Honourable Mitchell Sharp, then Minister of Finance :

"This brief does not wish to dispute the Commission's sound reasoning in favour of a maximum target figure for the taxpayer's retirement pension, rather than the present maximum annual contributions by employer and employee. However, it does emphatically wish to contest two points :

"(1) the unimaginatively low maximum of $12,000 set for the target pension; [4]

"(2) the failure to provide for any automatic adjustment of the maximum, from year to year.

inflation and the ceiling for tax-free pension accumulation

"The Commission recommends (Vol. 3, p. 4:3) that the maximum allowable benefits for all registered income plans, for any tax unit, be the equivalent of a single life annuity, with a guaranteed term of ten years, of $12,000 a year for an individual, payable from age 65. It points out that the $12,000 limit refers only to the taxe benefit, and does not prevent a larger accumulation for retirement. However, the tax benefit is of decisive importance

4. Robert M. Clark (Economics, University of British Columbia), **Address on Deferred Income,** Report 1967 (April) Conference, Canadian Tax Foundation, pp. 278-286.

when it is a question of giving the incentive for accumulating income for the years of retirement at the cost of a present sacrifice. As a maximum, or tax exemption, $12,000 is surely far too low, even considered as an absolute sum, without reference to changing cost of living. The immediate effects of imposing such a limit would be felt by those at present under middle age, but the long-term effect would be serious for all taxpayers.

"It is noted that Commissioner Grant dissents emphatically from the $12,000 limitation (Vol. 1, p. 110), pointing out that 'it would mean a cutback in some of the Registered Retirement Income Plans now in existence, in both current and past service, and would fail to meet pension requirements for many in business and the professions, where creative capacity must be recognized.' Commissioner Beauvais, also dissenting, states that present departmental practice allows a limit of $40,000.

"This brief supports the statements of Commissioners Grant and Beauvais, and urges that, if the existing system is to be changed, to avoid overlapping of plans, then the limit of retirement income to be provided for by tax-free contributions should be at least $20,000 per annum.

correction for inflation

"A factor to be taken very seriously into account, with particular regard to the accumulation of retirement income, is the eroding effect of inflation.

"If the history of the remuneration of university teachers over the past 20 years be analysed, it will be found that where, in 1948, the annual salary of a full professor in a reputable university was about $5,000 or less, the figure at the beginning of the full professor's scale today is about $16,000 — in 20 years the salary has more than trebled. Is there any reason to think that the same trebling may not occur again in the next 20 years ? If not, how can this factor possibly be ignored, in so far as it results from inflation, when providing for the post-retirement income of 20, 30 or 40 years hence ?

"The Commission states carefully and in detail its policy in regard to inflation. It has a great fear of upsetting the 'automatic stabilisers that are built into the present tax-expenditure system.' It prefers, therefore, to ignore the effects of inflation but urge the government periodically to 'review the tax system and its transfer payment programmes to ensure that those on low, fixed incomes share in the fruits of Canada's economic growth.' The trouble is that this leaves things to the decision of a government that is subject to countless pressures, with the constant need to deal with

them *ad hoc*, according to the relative urgencies of the moment. Changing price levels through inflation can cause great havoc and suffering among those on fixed incomes, before the government comes to the point of changing the tax credits to relieve such suffering. The 1950s were not years of seriously growing inflation, yet retired university teachers on fixed incomes suffered quite considerably through the falling value of money. It cannot be right to deal with the problem on inflation on such an arbitrary basis.

"The fact remains that there are reliable indices to compensate for changes in the cost of living. The accountancy profession as a whole has not yet accepted the necesssity for using any index to correct accounts for inflation. Nevertheless, there are many leading professional accountants who advocate such correction, on the grounds that any resulting inaccuracy would be infinitely less than the inaccuracy of doing nothing. The Accounting Research Study No. 6 of the American Institute of Certified Public Accountants (speaking for the individual researchers, it is true, and not for the Institute itself), gives serious consideration to the automatic correction of accounts by use of indices such as the Implicit Price Deflator of the Gross National Product.

"For application to the pension figure the most suitable index would be one which takes into account the annual per capita expenditure on consumer goods and services, based on the reliable records of the Dominion Bureau of Statistics.[5] This should be used to correct the pension fund ceiling from year to year.

"The Commission accepts an annual change of from 1½% to 2% in the consumer's price index as normal in the present age. At this rate it is evident that a retired university teacher, who began receiving a fixed annuity of $5,000 per annum in 1957 (not by any means an unrealistically low figure) would today be receiving in effect little more than $4,000 in terms of 1957 dollars. Or it may be said that the income needed in 1967, to be equivalent in 1967 dollars to the $5,000 of 1957, will be $6,000. And this, it must be noted, brings a married taxpayer who is fortunate enough to have an income with the built-in compensation that has raised it from $5,000 to $6,000, in the ten year period, to the very beginning of the $4,000 to $6,000 bracket, with the tax rate increased from 22% to 26%. Evidently not only are inflation profits at present subject to tax but, with our progressive rates of tax, they may well be taxed at higher rates. It is of paramount importance that specific annual adjustments by index should be made, to ensure that accumulating pension funds are commensurate with the changing value of money, from year to year. This cannot be left to arbitrary intervention of the government."

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5. Ibid., p. 286.

At a time when the annual rate of inflation is about 5% or more these observations on the eroding effects of inflation need to be given all the more serious consideration, in the interests, above all, of the pensioner with fixed income.

Purvis Hall

February, 1970.

exhibit A

U.S. TREASURY DEPARTMENT
Internal Revenue Service
Office of International Operations
Washington 25, D.C., USA
January 2, 1963

Dear Professor Byrd :

This refers to your letter requesting information about the deductibility of various expenses incurred by university professors.

Under the provisions of the Internal Revenue Code a taxpayer who is engaged in business is allowed to deduct all the ordinary and necessary expenses incurred in the operation of that business.

The term "business" for this purpose includes a profession or performance of services as an employee.

Section 162 of the Code provides that "In General, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable years in carrying on any trade or business, including —

"(1) a reasonable allowance for salaries or other compensation for personal services actually rendered;

"(2) traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; ..."

Section 212 of the Code which relates to personal, living, and family expenses provides that in computing taxable income, no deduction shall be allowed, except as otherwise expressly provided in Chapter 1 of the Code for personal, living, and family expenses.

Teachers may deduct dues to professional societies, subscriptions for educational journals, and expenses of travelling and meals and lodging incurred in attending teachers' conventions in this country, if they are not reimbursed for these expenses. Records must be kept to substantiate the deductions. Cost of professional books purchased for use in connection with their professional work is a depreciable capital expenditure. The cost of university robes and gowns and laboratory costs may be deducted.

Travel expenses incurred by teachers on sabbatical leave from their schools, who receive compensation while on leave may deduct *(sic)* their travel expenses if the travel was required by the school board and if they are required to report to the school relative to their travel. These expenses are not deductible if the travel and study are not required by the school in order to maintain the position.

The cost of clerical assistance is deductible if the professor can show that the assistance is necessary and that the expense is not paid by his employer. If a professor is provided an office or office space, it would be a rare instance when an office in his residence would also be required. In general, if the university provides an office the expense of an office in a professor's residence would be disallowed in the examination of a return on which the deduction was claimed.

Section 1.162-5 of the income tax regulations provides that "(a) Expenditures made by a taxpayer for his education are deductible if they are for education (including research activities) undertaken primarily for the purpose of :

"(1) Maintaining or improving skills required by the taxpayer in his employment or other trade or business, or

"(2) Meeting the express requirements of a taxpayer's employer, or the requirements of applicable law or regulations, imposed as a condition to the retention by the taxpayer of his salary, status, or employment."

Whether or not education is of the type referred to in subparagraph (1) above shall be determined upon the basis of all the facts of each case. If it is customary for other established members of the taxpayer's trade or business to undertake such education the taxpayer will ordinarily be considered to have undertaken this education for the purpose described in (1) of the paragraph. Expenses for education described in (2) are deductible only to the extent that they are for the minimum education required by the employer, or by applicable law or regulations, as a condition to the retention of the taxpayer's salary, status, or employment.

Expenditures made by a professor for his education are not deductible if they are for the purpose of obtaining a new position or substantial advancement in position, or primarily for the purpose of fulfilling the general education aspirations or other personal purposes of the taxpayer.

We are enclosing some pamphlets which may be of value to you.

Very truly yours,
C. I. Fox
Director of International Operations.

exhibit B

Inland Revenue
Chief Inspector
Taxes Branch
New Wing, Somerset House
London, W.C. 2
10 December, 1962

Dear Professor Byrd :

I have your letter of 22nd November, 1962. It covers a wide field but I trust the following information will assist you.

Professors and lecturers at universities hold offices or employments, the income from which is assessable in the United Kingdom under Schedule E. To be admissible as a deduction in arriving at the emoluments assessable under this Schedule an expense must come within paragraph 7 of the Ninth Shedule, I.T.A. 1952 which reads as follows :

> "If the holder of any office or employment of profit is necessarily obliged to incur and defray out of the emoluments thereof the expenses of travelling in the performance of the duties of the office or employment, or of keeping and maintaining a horse to enable him to perform the same, or otherwise to expend money wholly, exclusively and necessarily in the performance of the said duties, there may be deducted from the emoluments to be assessed the expenses so necessarily incurred and defrayed."

In brief, before a man can claim an expense as a deduction he must show that he is necessarily obliged to incur it and that it is incurred in the performance of his duties. The scope for deductions is, therefore, very limited and the Courts have consistently supported a strict interpretation of the terms of the paragraph.

However, it is recognized that if a university teacher is to fulfil his duties adequately he may incur expenditure in respect of which a claim under paragraph 7 is justified. I think the points to which you specifically refer are all covered in the summary below which sets out our normal approach to university teachers.

(1) Robes and Gowns

Where the wearing of these is customary the cost of maintaining and replacing them, but not the initial cost of providing them, would be allowed.

(2) Laboratory Coats

If the university did not supply these itself, the cost of maintenance and replacement would be allowed to teachers whose duties necessitate their use.

(3) Study Allowance

Where the facilities provided by the university are inadequate and it is necessary for the teacher to use a room at his residence in the performance of his duties, a reasonable deduction is allowed for rent, or annual value, and rates applicable to the part of the residence so used and for the incidental cost of lighting, heating and cleaning, etc.

(4) Research

It is recognized that university teachers are normally under some obligation to engage in research in their subjects, but the nature and extent of the research is within the discretion of the individual teacher. Where there is an obligation to engage in research we are prepared to agree deductions in principle for research expenses which are directly related to the teacher's subject, and are moderate in amount, and in respect of which reimbursement is not available.

(5) Books

No deduction is allowed for depreciation of a teacher's library as such, but one may be allowed in respect of purchases where it is clear that the books are used by the teacher in the performance of his duties (i.e. if they are used in the preparation of lectures or in the course of research). No deduction is allowed for expenditure on books which is in the nature of capital outlay or which is incurred for the general maintenance of teachers' knowledge and qualifications. Where a deduction is allowed it is restricted to the cost of the books less their secondhand value.

(6) Summer Schools. Refresher Course, etc.

Expenses incurred to maintain professional competence and to keep abreast of current trends of thought are outside the scope of paragraph 7; therefore, the expenses of attending summer schools, refresher courses, meetings of learned societies, conferences, etc. are normally inadmissible. Where a teacher attends a conference in an official capacity, e.g. to read a paper, his expenses are usually reimbursed.

(7) Clerical Expenses

The expense of clerical assistance would not normally be regarded as necessarily incurred in the performance of a university teacher's duties; some deduction might be allowed under (4) above — Research — for the typing of articles for publication, etc.

(8) Subscriptions for Learned Societies

Where the activities of a Society are relevant to the teacher's office or employment a deduction may be given under Section 16,

Finance Act 1958, in respect of subscriptions to it provided the Society has been approved by the Board of Inland Revenue for the purposes of the Section. Frequently a subscription entitles the member to copies of the Society's periodicals and bulletins.

(9) Sabbatical Leave

It is a little difficult to generalize on the expenses incurred by a professor on sabbatical leave or undertaking summer school lecturing as no doubt the terms on which they are engaged vary. Any expense in respect of such work could not be deducted from the income of his main post, but if in effect he took a separate one the income from which is assessable Schedule E, then again he could deduct from the emoluments of that post those expenses within paragraph 7. The cost of travelling between his main place of work and the other university would not be admissible nor would the cost of living away from home.

Generally, the view is taken that the salary of a university teacher is his remuneration for the work he does. It is more or less standardized without regard to possible variations in expenditure and it is, therefore, a reasonable inference that an individual teacher is not expected to use a substantial part of his salary to pay for research, books, etc. Expenditure which is not modest in amount, therefore, is considered to be not necessarily incurred and not within paragraph 7.

Of course, in addition to holding offices or posts at a university many teachers exercise a profession the income of which is assessable Schedule D. For instance, many write books and articles, appear on television, speak on the radio, etc. In computing the profit from such activities, which are often carried on from the residence, teachers may be able to deduct expenses such as travelling, etc., which would not satisfy the stringent terms of paragraph 7 and could not, therefore, be deducted from their salary as university teachers.

Yours faithfully,
(Sgd.) R. W. Rae
Senior Principal Inspector of Taxes

MOUNT ALLISON UNIVERSITY [1]

Mrs. Catherine Daniel was appointed to the Mount Allison Conservatory as a voice teacher in 1956. The Conservatory became the Department of Music of the University in 1962 and its teachers were given university ranks. Mrs. Daniel is considered to have tenure as an Instructor.

On 17 April 1969, Mrs. Daniel received a letter from Dr. Poole, Dean of Arts and Science, informing her that he had received a number of serious complaints about her teaching, that he would discuss these with the President, and that he would soon arrange a meeting with her.

The President of Mount Allison, Dr. Laurence Cragg, met with Dr. Elmer Tory, President of the Faculty Association, to discuss appropriate procedures and to consider appropriate preliminary steps. The University had not previously established formal procedures for dealing with cases of dismissal.

On 29 April, Mrs. Daniel met with President Cragg, Dean Poole, Dr. Proctor the Head of the Department of Music, Dr. Tory as her advisor, and Professor Greenslade as a disinterested observer. Dr. Cragg asked for Mrs. Daniel's resignation effective 30 June 1969; alternatively, on the basis of the reports by Dean Poole and Dr. Proctor on her unsatisfactory work he would recommend to the Board of Regents that she be dismissed on the grounds of incompetence and neglect of duty. [2] She was informed that she would receive a year's severance pay plus the University's contribution to her pension for one year following termination of her employment. It was agreed that Mrs. Daniel would meet informally with Dean Poole, Dr. Proctor, Dr. Tory and Professor Greenslade to discuss the evidence in the statements which had been made.

The second meeting was delayed until 5 May, by which time Mrs. Daniel had submitted the marks for her students. At this meeting Dean Poole and Dr. Proctor reviewed their grounds for charging her with incompetence and neglect of duty and she was given a copy of the complaints made to the Dean. Dean Poole had been visited by 11 of Mrs. Daniel's 13 voice students, in groups of three and four, to complain of her teaching. [3] He had made

1. This report was provisionally approved by the A.F. & T. Committee in March 1970, subject to comments from President Cragg and the Mount Allison Faculty Association Executive. The report was sent to both on 1 April 1970 and comments received from Dr. Cragg on 6 and 7 May, and from the Faculty Association on about 28 April. Specific comments and corrections have been incorporated into the revised text and notes. A general commentary from Dr. Cragg and from Dr. Tory are attached as appendices.
2. The letter from Dr. Cragg to Mrs. Daniel of 8 May 1969 states, "that if you decided not to resign we would recommend that appropriate action be taken to terminate your appointment immediately; (and it was agreed that 'appropriate action' would include, if you requested it, a fair hearing in accordance with accepted practice)."
3. This statement is based on information received by the C.A.U.T. investigating committee on 17 February at its afternoon discussion with the President, Vice-President (and Dean), and the Head of the Music Department. In his commentary of 4 May on the C.A.U.T. Report, Dr. Cragg writes: "Dean Poole had been visited by 27 of Mrs. Daniel's students (including 11 of the 13 voice majors and minors) in groups varying in size from one to six."

notes of their statements and had the students sign his record. (Annual evaluations of Mrs. Daniel by the Head of the Music Department resulted in comparatively small salary increases for 1966-67 and 1967-68, and no merit increase for 1968-69.)

At the conclusion of the meeting, Mrs. Daniel was asked to inform the President in writing whether or not she would resign or request formal dismissal hearings.

Meanwhile, the Faculty Association Executive met on 1 May and unanimously approved two motions:

i. "It is essential that the members of the Arbitration Committee should be drawn from outside the University";

ii. "All parties should accept the findings of such a Committee."

The Faculty Association Executive met again the following day to discuss President Cragg's proposed *Procedures in regard to Dismissal of a Tenured Faculty Member for Cause.* Detailed comments were sent to the President arguing that:

i. the Hearing Committee should be drawn from faculty members outside of Mount Allison who are acceptable to all parties in the dispute (so that the Committee would be impartial and be seen to be impartial);

ii. that the Committee should be composed of fewer than seven, preferably three, so that unanimity might be achieved;

iii. the Committee's recommendation be accepted beforehand as binding on all parties; and

iv. that the written statement of the specific grounds for dismissal determine what evidence was pertinent.

The comments emphasized that the Faculty Association would not automatically defend any faculty member, but was concerned to ensure that proper procedures be established to ensure a fair hearing and objective judgment and that "dissension within the community should be minimized during and after any dispute so that the academic functions of the University would not be impaired."

President Cragg wrote in response to the Faculty Association Executive's comments. He expressed disappointment that the Executive had made firm statements of principle rather than continuing informal discussion. The principles of composing the Hearing Committee with outside people and of binding recommendations were rejected because to accept them would be to "declare that our faculty is incompetent to advise and our board incompetent to decide who does or does not meet the standards that this University sets for itself." He expressed confidence that a hearing committee could be formed from tenured faculty members of the University which would make "objective, fair, and informed judgments" which would be sounder than those which could be made by persons from outside the University.

In conversation with Dr. Tory, President Cragg emphasized that the Board could not delegate its authority to dismiss. Should the Hearing Committee's recommendation be rejected by the Board, then an appeal to the C.A.U.T. could be made and, depending upon the results of its investigation, an arbitration committee established. The Board, since it had "the duty to be fair and

just and to seem to be so" would accept the recommendation unless there were compelling reasons not to do so. [4]

A special meeting of the Faculty Association was called on 8 May. Motions were unanimously passed:

i. approving the Executive's "actions and tendencies";

ii. insisting that recommendations of the Hearing Committee be morally binding on all parties;

iii. urging that the composition of the tribunal be acceptable to all parties; and

iv. urging that "attempts be made to achieve a tribunal in which *all* members are acceptable to *all* parties."

The same day, 8 May, President Cragg informed the Faculty Council, at a regular meeting, that a dismissal action was in progress, that in the absence of a set procedure for dismissal he desired to work with the Faculty Association to establish a mutually satisfactory procedure which would ensure a fair hearing and "in general be in line with the practice followed by other universities."

Dean Poole wrote Mrs. Daniel on 7 May reminding her of her agreement to inform the President soon of her intention. Mrs. Daniel telephoned President Cragg on 8 May and informed him that she would not resign but desired a hearing so that she could defend herself against the charges. President Cragg replied by letter in which he pointed out that "no formal charges in detail have yet been made." He reviewed the substance of the two informal meetings, and promised to inform her of the formal procedure for a dismissal hearing when he received a written statement of her decision not to resign; if she chose the option of having a formal hearing she would be given a formal statement of the basis for dismissal action.

Mrs. Daniel wrote to President Cragg on 12 May acknowledging his request for her decision regarding resignation. She requested information about the dismissal procedure and a statement of the charges against her, and she referred to the published C.A.U.T. procedures as being acceptable to her.

The Faculty Association Executive met on 13 May to consider its position in preparation for the Senate meeting on dismissal procedures. It was agreed to continue to press for (i) a Hearing Committee acceptable to all parties to the dispute, and (ii) morally binding recommendations.

The Senate met on 14 May with Dr. Tory in attendance as a representative of the Faculty Association. At that time the Mount Allison Senate consisted of the President, the Vice-President, the Dean, all Department Heads (20), several other *ex officio* members, six members of the Board and six elected faculty members, as well as two student observers. The President's draft procedure was presented with his assurance that it was to apply specifically to this case and not to establish procedures for future application. President Cragg reported that he had considered the procedures recommended by the C.A.U.T. Policy

4. Dr. Cragg in his comments on the C.A.U.T. Report, states that he does not agree with this summary, and prefers the following: "In conversation with Dr. Tory, President Cragg emphasized that the Board could not delegate its authority to dismiss. He was convinced, however, that the Board would accept the recommendations of the Hearing Committee — as would the President — (unless there were **very** compelling reasons not to do so). In the very unlikely event that a Hearing Committee's recommendations were rejected, an appeal could be made to the C.A.U.T. and, depending on the results of its investigation, it could **then** seek binding arbitration." The Executive of the Mount Allison Faculty Association comments: "On several occasions, President Cragg has mentioned the possibility of an appeal to C.A.U.T. should the Hearing Committee's recommendation be rejected by the Board. No firm procedure was ever proposed."

Statement, the A.A.U.P. Policy Statement, and also those set forth in the Faculty Handbooks of eight Canadian universities. Most of the clauses of the President's draft procedures were adopted without much change. The President agreed that he would not make a formal recommendation to the Board contrary to that of the Hearing Committee but that he reserved the right to join in discussion and to express his opinions as a member of the Executive of the Board. The clause in the original draft concerning composition of the Hearing Committee was revised to specify:

a) a membership of five faculty members with tenure, at least four of whom must be from Mount Allison; and

b) procedures for forming the committee if mutual agreement could not be reached on five persons.

The procedure was adopted by Senate "for this case" with the minutes recording Dr. Tory's objection to the procedure. [5]

Subsequently, on 10 June 1969, the Executive Committee of the Board of Regents unanimously adopted the *ad hoc* procedures.

President Cragg sent a copy of the revised dismissal procedures to Mrs. Daniel on 16 May. He noted that he understood her letter of 12 May to mean that she was withholding her decision to resign until the dismissal procedure was established, and that she would receive a written statement of charges only after she had made a request for a formal hearing.

Mrs. Daniel replied on 22 May that the procedure for dismissal did not conform to the requirements of the Faculty Association, nor to those of the C.A.U.T., and that she could not give a definite answer until Dr. Tory had discussed the matter with the C.A.U.T. President Cragg replied (23 May) that her reasons for delay were unacceptable, that her choice was to resign or to commence dismissal procedures according to the procedures adopted.

Dr. Tory wrote on 27 May to President Cragg reaffirming his objections to the dismissal procedure and proposing that a more generous financial settlement might be negotiated.

Mrs. Daniel (28 May) replied to the President that she had a third alternative: refusal to "participate in a procedure which is so heavily biased toward the administration." President Cragg's reply of 11 June stated that a failure on her part to provide a written decision by Friday, 13 June, would be taken as a confirmation of her oral statement that she would not resign. He would then recommend dismissal and proceed with formal action — either a hearing according to the adopted procedures if she so requested, or direct conveyance of his recommendation to the Board.

Mrs. Daniel's reply on 12 June (a) confirmed her decision not to resign; (b) agreed that a fair hearing was essential but on the advice of the Faculty Association and of C.A.U.T. could not accept the proposed procedure as a fair one; (c) enclosed a proposal for a lump-sum settlement, without prejudice, for $36,718 (on which there was no consultation with C.A.U.T.); and (d) announced that she was leaving for Indiana to continue her studies for an M.M. degree.

The Faculty Association Executive met on 13 June and agreed to present to the Chairman of the Executive of the Board of Regents a statement of the

5. Both the proposed and revised procedures contain the following clause: "Should the Executive of the Board not accept the recommendation of the Hearing Committee, it shall refer the matter back to the Committee for reconsideration, with a statement of its objections. The Hearing Committee may, if it wishes, reconsider its recommendations in the light of these objections and reframe its recommendations. Having considered these recommendations, the Executive of the Board will make its decision."

Association's position that the decision of the Hearing Committee be regarded as morally binding. The statement referred to the likelihood that a minority report would be presented to the Board and could be accepted; further that the Hearing Committee "having the power to hear *all* relevant evidence and interview *all* interested persons, is the *only* body able to reach just decisions. Therefore, its decision should be binding on both parties to the dispute."

On 19 June, President Cragg reported at a meeting of the Senate that the Executive Committee of the Board of Regents had decided that the Hearing Committee should be internal and that its recommendation should not be binding on the Board.

Also on 19 June, President Cragg wrote to Mrs. Daniel acknowledging her confirmation of intention not to resign, and asking her to reply within seven days whether or not she desired a formal hearing; failing a reply from her it would be assumed that a formal hearing was not requested and he would make his recommendation for dismissal to the Board.

Mrs. Daniel replied, 25 June, that she requested a formal hearing which met the minimal criteria outlined in the C.A.U.T. Policy Statement and which would assure her of a greater degree of equity than the *ad hoc* Mount Allison procedures.

President Cragg replied to Mrs. Daniel on 5 July indicating that he interpreted her letter as a rejection of his offer of a hearing and that he would make his recommendation to the Board. Then on 13 August he wrote to Mrs. Daniel to inform her that the Executive Committee of the Board of Regents had decided (a) to terminate her appointment effective 1 July, 1969, and (b) pay her a sum equivalent to one year's salary plus the University's contribution to her pension fund.

Before receiving the President's notice of dismissal, on 13 August, Mrs. Daniel wrote him to ask for a year's leave of absence to permit her to continue studies at Indiana. She also reiterated her willingness to accept a formal hearing consistent with the C.A.U.T. requirements.

The Faculty Association, at its October meeting passed motions:

a) reaffirming its insistence on morally binding recommendations of a mutually acceptable hearing committee; and

b) directing its Executive to attempt to obtain an acceptable formal hearing for Mrs. Daniel.

Mrs. Daniel first appealed to the Executive Secretary of the C.A.U.T. in May 1969. Since then there has been considerable correspondence with President Cragg. The central issue concerns binding arbitration. President Cragg insists that the Board should retain the right to reject the Hearing Committee recommendation "in order to protect the University against the possibility of an unwise or unfair finding." He also regards the C.A.U.T. proposed procedures as "resorting immediately to arbitration" and thus a "threat to university autonomy and a public assertion that individual universities are incapable of deciding 'who shall teach'." President Cragg stated that to accept that a Hearing Committee's decision must be binding would imply that the "administrative officers are not to be trusted, that the Board of Regents will not be objective, that the findings of a hearing conducted with full and proper safeguards by an independent Hearing Committee will not carry tremendous weight with the Board of Regents."

Both the Faculty Association and the A.F. & T. Committee of the C.A.U.T. have taken the position that Mrs. Daniel did not refuse to accept a formal

hearing, but rather had repeatedly requested a hearing which assured a judgment based upon a fair hearing.

Following lengthy correspondence with Dr. Cragg that resulted in no change in attitude or resolution of the Daniel grievance, the A.F. & T. Committee established a two-man committee of enquiry at its meetings on 24-25 January. The investigating committee visited Mount Allison on 17 February. The morning was spent in discussion with the Executive of the Faculty Association and the afternoon in discussion with President Cragg; Dr. Poole, Vice-President (Academic) and Dean; Dr. Proctor, Head of the Music Department; and Dr. Crawford, Vice-President until the current academic year. The Faculty Association Executive reviewed the events of the Daniel case and cited a number of examples to illustrate the view that decisions about appointments usually did not involve faculty members other than Department Heads and senior administrators. In the discussion with the senior administrators the committee argued for a binding arbitration procedure and in response was given substantially the arguments presented above.

In summary, Mrs. Daniel was informed that her work was unsatisfactory, that if she did not resign, formal steps would be taken to dismiss her. She chose not to resign, whereupon the President drafted an *ad hoc* procedure for dismissal hearings, subsequently revised by the University Senate. The Mount Allison Faculty Association raised a number of objections to the proposed procedure: it did not provide for a Hearing Committee decision binding on all parties, it did not provide for a committee composed of faculty members from outside Mount Allison University, it permitted the President to serve both as one who decides that there are grounds for recommending dismissal and as a member of the Committee of the Board which decides whether to accept the Hearing Committee's recommendation.[6] President Cragg took the position that the senior administrators and Board could be relied upon to be impartial and objective and that a Hearing Committee established according to the adopted procedures could be relied upon to be impartial. Mrs. Daniel protested that she wanted a formal hearing which satisfied the requirements advocated in the C.A.U.T. Policy Statement, but would not submit to a hearing according to the Mount Allison *ad hoc* procedure. President Cragg made his recommendation to the Board's Executive Committee and Mrs. Daniel was dismissed without a hearing. The current position of the Faculty Association is that Mrs. Daniel deserves a hearing by a committee acceptable to all parties in the dispute, and whose decision will be morally binding on all parties.

The C.A.U.T. takes the view that only the university president, as chief executive officer, should have the power to institute dismissal proceedings against a faculty member. Formal authority for such a critical measure ought not to reside at any other level. At the same time, the C.A.U.T. is committed to the principle of adjudication by an independent tribunal as the fairest of dismissal proceedings. This commitment implies no lack of trust in the ability or integrity of university presidents or other executive officers. It merely implies that there is an adjudicative as well as an executive decision to be made in determining that cause for dismissal exists and that these decisions ought not to be made by the same authority.

It is, of course, true that the division of executive and adjudicative functions provides against the possibility of an incompetent, a corrupt or a malicious administrator. But more important, it recognizes that a capable, benign and scrupulous executive may, in a particular case, be unable by reason of personal

6. In an effort to reach agreement with the President, the Executive of the Faculty Association decided not to push for an outside committee, as they had originally requested, but to ask the Association to endorse its stand on an impartial committee whose decision would be morally binding on all parties.

feelings to entertain any view other than his own which may, in the event, be mistaken. The probability of either of these circumstances arising may not be high, but the division of functions must be established by procedures of general application so that one need never be unduly concerned with the question of motive in a particular case. If the procedure is not uniformly resorted to, the position of any individual or organization seeking to invoke it in a particular case is completely invidious.

The reason the C.A.U.T. specifically objects to the use of an advisory hearing committee is that it fails to make this distinction between functions which we believe to be the only guarantee of academic freedom. When a university president institutes dismissal proceedings in good faith against a faculty member, it is because he has concluded that there are grounds for dismissal and that dismissal would be in the best interests of the university. He may be right but, by definition, he is no longer impartial. The cause may not be personal, but it is nevertheless his because of his belief in it and commitment to it. Consequently, if the final decision on dismissal rests with the president, or a body of which he is a member, he is a judge in his own cause. The C.A.U.T. does not believe the wise and honourable chief executive would want the right as judge to pass on the validity of his own decision as chief executive. If the hearing committee recommended against dismissal and the president, or the body of which he was a member reversed that decision, either before or after referral for reconsideration, justice would not clearly be seen to be done.

There is more than one way to accomplish an independent adjudication. The C.A.U.T. believes binding arbitration is the best way.

A. Berland
D. Hart

May 1970

APPENDIX I

Comments by Dr. E. M. Tory

(Para. 20) My letter of 27 May led to two informal discussions with President Cragg. At the first of these (5 June), President Cragg proposed a $5,000 *ex gratia* payment (in addition to the year's salary already approved). On 6 June, I formulated a plan which combined a guaranteed annual income with an incentive for work. Dr. Cragg proposed a similar plan involving smaller amounts and stated that he would ask the Executive of the Board to approve it if Mrs. Daniel agreed to resign.

Mrs. Daniel discussed the offer with several advisors. They agreed that there was now a substantial incentive to resign if she believed that the charges of incompetence and neglect of duty were justified. She was firmly convinced that they were not and, with professional assistance, she formulated a proposal for a lump-sum settlement (last full paragraph) which more accurately reflected the real cost of giving up her position.

Though the Administration seeks to give the impression that our insistance on binding arbitration is purely a formality, there is, in my opinion, a good chance that Mrs. Daniel would win her case. In a recent dispute involving refusal of tenure to a man generally considered to be an *outstanding* teacher and poet, the Administration listed reasons which elicited the scorn of virtually the entire academic community.

I submit these comments separately because most members of the Executive of the Faculty Association did not have access to the "evidence" nor were they involved in talks concerning an *ex gratia* payment.

E. M. Tory, President
Mount Allison Faculty Association

APPENDIX II

Comments by Dr. L. Cragg

We note with appreciation that the report makes it clear that throughout the University Community — and this includes the President and his senior administrative colleagues, the Faculty Association, the Senate, and the Executive Committee of the Board of Regents — there has been a genuine desire to ensure that justice be done and to develop and use fair and proper procedures. The report makes clear that there was achieved a very considerable degree of agreement on procedures, and that when it became evident that there was disagreement on the question of arbitration the President took the matter to the senior policy-making bodies of the University; that in the Senate, revisions of the procedures were adopted but that after full debate the Senate voted against binding arbitration (as proposed by the Faculty Association) and for the hearing committee principle, and approved the revised Procedure "for this case"; and that the Executive Committee of the Board of Regents adopted the revised *ad hoc* Procedure. The Report makes clear too that the Procedure was followed scrupulously throughout; that Mrs. Daniel was offered a hearing in accordance with the adopted Procedure and that she declined it; and that, when dismissal was decided upon by the Executive Committee, a generous severance provision was made.

The question at issue is not whether the grounds for dismissal were adequate. (The Committee of Enquiry did not even wish to examine these). It is not whether a fair, impartial hearing was offered. It is whether the procedure decided upon by the University is acceptable — or more precisely, whether a "hearing Committee" procedure is acceptable. Evidently it is not acceptable to the C.A.U.T. and the Mount Allison Faculty Association. But it is in accord with the procedures recommended by the C.A.U.T.'s sister organizations in the United States and Great Britain, namely, the American Association of University Professors and the Association of University Teachers. It is acceptable to the Association of Universities and Colleges of Canada. It is acceptable to many of the universities, and their Faculty Associations, in this country. Clearly, then, our Procedure is in accord with widely accepted practice.

We find the C.A.U.T.'s arguments for its preference for binding arbitration unconvincing. They appear to be based on a misconception of the roles of the President and the Board in a dismissal action. The President does not institute proceedings. They are instituted by others, in this case by the Dean and by the Head of the Department. The decision that the charges were sufficiently serious to justify action was made by the Dean and the Vice-President. The President agreed, after review, that a *prima facie* case had been made, and it then became his responsibility to set in motion the proper procedures. A president, therefore, does not make a dismissal his "cause". Hence he cannot fairly be said to act as "a judge in his own cause".

There is no disagreement about the desirability of an impartial hearing. But we believe that the dismissal decision should be made by the body to whom the constitution of the University entrusts the responsibility of making the final decisions. To take this authority from the Board and give it to an arbitration Committee is to assume that the Board cannot be trusted to make a partial, a just, a wise decision, and that an arbitration Committee can be so trusted. These are arbitrary assumptions for which we can find no justification.

Dr. L. Cragg
President
Mount Allison University

May 4, 1970

SIMON FRASER UNIVERSITY [1]

At a meeting of the Executive and Finance Committee of the C.A.U.T. on Thursday, 18 June 1970, a committee of inquiry was established to report on the status of suspensions, dismissal procedures, and appeals of faculty members in the PSA Department at Simon Fraser University. The members appointed to the committee were A. E. Malloch (Chairman), L. F. Kristjanson, and I. D. Pal. Letters were sent at the end of June to the PSA faculty members involved, and to the president of the university, Kenneth Strand, asking them to submit any information or comment they might wish to make before the committee visited the campus toward the end of July. Difficulties in the postal service at that time made the delivery of this preliminary information uncertain, but very full documentation was received from the President of the University and more was prepared by the faculty members for delivery to the committee on its arrival in Burnaby.

The committee visited the Simon Fraser campus for three days, 20, 21 and 22 July, interviewing most of the principals in the dismissal cases, and a number of other persons. The committee met as a whole with the President on the first day, and the chairman of the committee met again with the President on the third day accompanied by Professor M. Mackauer, Acting President of the Simon Fraser Faculty Association. Of the eight professors against whom dismissal charges have been brought, the committee met Professors K. Aberle, M. Briemberg, J. Leggett, N. Popkin, and P. Wheeldon. The three remaining, S. Ahmad, L. Feldhammer, and D. Potter, were out of the country and therefore unvailable. The committee met also with Professors T. Brose, and G. Sperling, who were appealing decisions made in August 1969 concerning their academic appointments. The committee met also with Professor Mackauer and the executive of the Simon Fraser Faculty Association; with Professor D. H. Sullivan, the Dean of the Faculty of Arts; with a group of undergraduate students registered in the PSA department who had requested a meeting with the committee; with Professor H. Sharma of the PSA department who had requested a meeting; and the chairman met Professor H. Hickerson of the PSA department who had also requested a meeting. The committee was not able to meet with Professor A. Mitzman, who had requested a meeting but who was at the last moment unable to meet the committee.

The eight faculty members who were suspended 3 October 1969 received letters of 17 October 1969 from President Strand informing them officially that he was initiating dismissal procedures against them, asking them if they wished hearing committees set up (as provided in Section 4 of the *Simon Fraser State-*

1. This report was written by the committee of inquiry appointed 18 June 1970 and submitted to the A.F.&T. Committee at its 17-18 September meeting.

ment on Academic Freedom and Tenure), and requesting them, if they wished committees, to nominate their members within fourteen days. Professors Ahmad, Briemberg, Feldhammer, Leggett, Potter and Wheeldon each named the same person, Professor W. Livant. Professor Aberle named Professor J. Jorgensen. Professor Popkin named Professor J. Zaslove. As a consequence, there were to be three separate dismissal hearings, one for the group of six faculty members, one for Professor Popkin, and one for Professor Aberle. This report will trace the activities of each committee (though Professor Aberle's committee was to disappear and her case to be assimilated to the hearings for Ahmad *et al*). Following the sections on the three dismissal hearings will be a section on the appeals of Professors Brose and Sperling who were away from Simon Fraser University on leave during the strike in the PSA department in September and October 1969, and who began appeals before the University Tenure Committee when they returned to the University.

Ahmad, Briemberg, Feldhammer, Leggett, Potter, Wheeldon

On 3 October 1969, President Strand suspended eight members of the PSA department, invoking the authority of Section 58(1) of the British Columbia Universities Act, and explicitly suspending them not only from their teaching assignments, but also from their committee assignments and their voting rights in decision-making bodies of the university. He pointed out at the same time that the Universities Act provided them with the right to appeal suspensions to the Board of Governors. President Strand might have suspended them under the authority of the local Academic Freedom and Tenure Statement (S.4.1.g), but that document would have enabled him to suspend them from teaching only. Subsequent events suggest that the President's decision to invoke the Universities Act led to considerable delay in the hearing of the dismissal charges against seven of the eight faculty members. Several of the suspended members did in fact appeal the suspension to the Board of Governors. The appeals were denied, but in the course of the hearings before the Board the question of the status and force of the local A.F. & T. Statement was raised by counsel for the faculty members, and in the opinion of the faculty members and their counsel was not satisfactorily answered by the university lawyers or by members of the Board of Governors. In consequence, one of the faculty members who had appealed the suspension, Professor Prudence Wheeldon, filed a Statement of Claim on 5 December 1969 in the Supreme Court of British Columbia, asking the Court to rule *(inter alia)* that the local A.F. & T. Statement was part of Professor Wheeldon's contract of employment, and therefore binding on the university. That Professor Wheeldon was not alone in her concern about the status of the A.F. & T. Statement is clear from a memo sent 5 January 1970 by Professor Lionel Kenner (chairman of the University Affairs Committee of the Simon Fraser Faculty Association) to President Strand, and a memo dated 28 January 1970 from Professor Kenner to Professor Walkley (the president of the faculty association). Following the issuance of the writ on 5 December 1969, the customary legal ritual unfolded, complete with Demands for Discovery of Documents, Affidavits of Documents, Examination for Discovery, Adjournment of Trial, etc., and finally the judgment on 18 June 1970, which found that the local A.F. & T. Statement formed no part of the contract of employment of a faculty member at Simon Fraser, and that the Board of Governors in approving the Statement essentially adopted a resolution of policy which was not intended to create legal obligations.

Though the case of Wheeldon versus Simon Fraser University was to delay the hearing committee for the six faculty members, the attempts to complete the membership of the committee proceeded during the time that Professor Wheel-

don's claim was being filed in the Supreme Court. Professor J. S. Dupré, President Strand's nominee, and Professor W. Livant, the nominee of the faculty members, attempted to agree on the third member to be the chairman. They were unable to agree, and according to the provisions of the A.F. & T. Statement the matter went for resolution to the Chief Justice of the Supreme Court of British Columbia who on 10 February 1970 named Professor E. E. Palmer to be the third member and chairman.

By the middle of March, Professor Palmer had been invited to serve and had agreed, and the faculty members had in turn been advised of who the chairman of their committee would be. The first hearings were scheduled for the third and fourth of April. The start of the hearings was twice delayed, first for two weeks on the request of one of the other members of the committee, and then for a month because of the illness of the chairman. The first meeting of the committee took place on 15 May 1970 and was adjourned on the same day until judgment had been rendered in the case of Wheeldon versus SFU, though a hearing was tentatively scheduled for 22 June. Though the judgment was handed down on 18 June, the hearings were again delayed by illness and did not resume until 21 July, the second day of the visit to the SFU campus by the C.A.U.T. committee of inquiry. Professor Aberle's case had been added by this time to those of the original six faculty members.

This hearing committee handed down its decision on 24 July 1970, finding that there was no cause for dismissal of the seven faculty members. President Strand challenged the decision almost immediately, but asked the committee to reconsider its report (as the Simon Fraser A.F. & T. Statement provides). On 20 July 1970, President Strand had explained to the C.A.U.T. committee of inquiry, by means of a blackboard diagram, that the A.F. & T. Statement did not permit him to recommend dismissal to the Board of Governors unless the hearing committee so found, and then assured us that he considered himself bound by a finding of "no cause" from a hearing committee. In a telegram of 26 July, Professor Malloch reminded President Strand of his undertaking, but after the Palmer committee reaffirmed its decision on 29 July, President Strand declared the findings invalid and confronted six of the faculty members with the choice of a second hearing or outright dismissal, and in the event recommended the dismissal of Professors Aberle and Potter. He withdrew the charges against Professor Leggett, whose appointment lapsed 31 August 1970. (The dispute concerning the Palmer committee decision is documented more fully in Professor Berland's report of 26 August 1970.) [2]

Popkin

The membership of the hearing committee for Professor Popkin was completed on 29 January 1970 when Professor Nelson (President Strand's nominee) and Professor Zaslove (Professor Popkin's nominee) agreed on the name of Professor Gideon Rosenbluth, who consented to serve. The first formal hearings took place on 13 March, and hearings were held regularly from that time on. At the time this committee of inquiry visited the campus, approximately twenty days of hearings had been logged, and the hearings have continued since.

Aberle

In early December 1969, Professor Kreisel (President Strand's nominee) and Professor Jorgensen (Professor Aberle's nominee) agreed to invite Professor

2. See **Simon Fraser Dispute (II)**, pp. 65-84 of this issue.

P. C. Gutkind to act as chairman of the hearing committee. Professor Gutkind replied that before he could accept the chairmanship of the hearing committee, he felt that there should be some agreement about the relation of the hearing to the investigation being undertaken by the American Anthropological Association. This and other questions raised by Professor Gutkind led Professor Kreisel to reconsider his decision about naming Professor Gutkind as chairman. On 9 February, Professor Willard Allen, the President of C.A.U.T., released a statement expressing his views concerning qualifications for membership in hearing committees, and touching in general terms on several of the points raised by Professor Kreisel. In a letter of 5 March 1970, Professor Kreisel wrote to President Strand saying that on reflection he was prepared to reaffirm his original decision to accept Professor Gutkind as the chairman of the committee. However, on 13 March, Professor Kreisel wrote to Professor Gutkind to announce that he was himself withdrawing from the committee as a consequence of having been appointed Academic Vice-President at the University of Alberta. Professor Kreisel's "final act prior to resigning from the Committee" was to withdraw his request of 11 December that Professor Gutkind serve as chairman, in order to leave his successor completely free to participate in the selection of a chairman. Professor Jorgensen in a letter of 25 March to Professor Gutkind objected to Professor Kreisel's withdrawing of his agreement on the chairman, but Professor Gutkind in a reply of 2 April announced that he would not in any case be able to serve as chairman as he was preparing to leave for a year of sabbatical study. Meanwhile, President Strand, on 1 April 1970, informed Professor Aberle and her nominee that he was nominating Professor W. R. Gordon to replace Professor Kreisel. Professor Jorgensen and Professor Gordon were unable to agree on a chairman and the three-week period after which an approach could be made to the Chief Justice of the Supreme Court of British Columbia began 12 May 1970. No approach, however, was made to the Chief Justice after the lapse of three weeks, and in mid-June Professor Aberle wrote to a member of the hearing committee for her six colleagues and asked if her case could be assimilated to theirs. The chairman of that committee, Professor Palmer, approached President Strand to see if he would be willing to have the charges against Professor Aberle brought within the context of that committee. After some delay and negotiation the matter was finally agreed to in the middle of July, and when the Palmer committee resumed its hearings on 21 July, Professor Aberle's case was taken up with those of her six colleagues.

Appeal of Professors Brose and Sperling

The recommendation of the Departmental Tenure Committee appointed for the PSA department in the summer of 1969 by Dean Sullivan was that Professors Brose and Sperling should have no renewal of their appointments unless they completed the requirements for their Ph.D. degrees before 30 April 1970. Dean Sullivan concurred with this recommendation. As Professors Brose and Sperling were away from the Simon Fraser campus in the late summer of 1969 and were to be on leave during the autumn semester of 1969, there was both delay and confusion about informing them of the decisions concerning their appointments. Both indicated early in the autumn of 1969 that they wished to appeal the decisions by the route provided in the local A.F. & T. Statement — that is to the Dean of their Faculty, and then to the University Tenure Committee. A resolution of the Board of Governors of Simon Fraser had made provision for appeal procedures to take place after the 31 August deadline, but required that they be completed before the meeting of the Board of Governors in October 1969.

The deadline for completing the appeals was waived, however, and the appeal procedures did not actually begin until early in January 1970, by which time Professors Brose and Sperling had both returned to the campus and taken up their teaching again. The account of the appeals themselves must be summarized radically because the procedures of appeal led to an exchange of literally scores of exasperated memoranda, filled with questions and replies, proposals and counterproposals, admonishments and recriminations. Both Professors Brose and Sperling met in January with Dean Sullivan, who recommended to the President of the University that the deadline for completion of the Ph.D. degree be put back in the case of both professors to 15 August 1970. After much negotiation about the time, place, and format of the meetings, Professors Brose and Sperling each met with the University Tenure Committee in the Spring of 1970. At the time the C.A.U.T. committee of inquiry visited the Simon Fraser campus in late July, negotiations were under way for mended to the President of the University that the deadline for completion of further appearances by both professors before the University Tenure Committee. Both did appear again before the committee, which finally rejected their appeals in August. In the Spring of 1970, Professor Brose received an appointment for the 1970-71 year at Fairhaven College in Washington State, and Professor Sperling received an appointment for the 1970-71 session at the Regina Campus of the University of Saskatchewan.

Summary

To speak of "delays" in these dismissal and appeal cases is to beg the question. Canadian universities do not have extensive experience with the kinds of dismissal procedures that are recommended in the C.A.U.T. guidelines, and approximated in the Simon Fraser A.F. & T. Statement. It must be obvious that the careful procedures that C.A.U.T. considers important as safeguards for academic freedom are not likely to be completed in a matter of days or even weeks. The committee hearing charges against Mr. Stanley Gray at McGill in 1969 sat from March until August. There was no reason to expect that the time required at Simon Fraser would be less, and since there were charges brought against eight different faculty members, it might have been expected that the proceedings would take considerably longer — even if, as proved the case, a number of the faculty members elected to have their cases considered together.

We can identify no extraordinary delay in the hearings of charges against Professor Popkin. The selection of a chairman for the committee hearing the charges against six other members of the PSA department took somewhat longer, but that delay was foreseen in the local A.F. & T. Statement. We have noted that the hearing of charges against the six faculty members was delayed by the suit instituted by Professor Wheeldon, but we have also noted that the issue she wished clarified was a matter of concern to other faculty members than those under suspension, and we find no evidence that the suit was undertaken in order to delay the dismissal hearings themselves. The selection of a chairman for Professor Aberle's committee appears to have been delayed somewhat by the misgivings that President Strand and his nominee came to have about the choice of Professor Gutkind, but the method of selecting a chairman that is incorporated in the Simon Fraser Academic Freedom and Tenure Statement opens the way to these misgivings and second thoughts. When the selection of a committee chairman is left to the nominees of the two opposing parties, it is almost certain that these nominees will not be left to their own counsel, and they evidently were not in the case of this committee. In any case, Professor Gutkind himself wished the hearings delayed until the report

from the American Anthropological Association had come in, so that ultimately the disagreement about the chairman did not delay proceedings. [3]

But having pointed out the inherent likelihood of extended hearings in these dismissal cases, we must add that the deep suspicion the opposing parties feel for each other at Simon Fraser has probably somewhat prolonged every step in the dismissal hearings (and very obviously prolonged the appeals of Professors Brose and Sperling). The C.A.U.T. Guidelines propose dismissal procedures that can, if they are accepted as such, be a resolution of apparently irresolvable differences. When the differences gather as much bitterness as they have gathered over the past year and a half at Simon Fraser, the dismissal procedures can themselves become a means of further pursuing the conflict. In Clausewitzian terms, the dismissal procedures become, for the opposing parties, extensions of policy by other means. And when this situation arises, the delays inherent in the procedures are bound to be aggravated.

A. E. Malloch, Chairman
L. F. Kristjanson
I. D. Pal

15 September 1970

3. The history of Professor Aberle's committee raises the question of the relation of professional associations to dismissal hearing committees. In our view it would have constituted an improper delay if Professor Aberle's committee had waited for the report from the American Anthropological Association. The issues in a dismissal hearing are bound to go beyond those within the purview of professional associations, and though it seems perfectly conceivable that a hearing committee might wish to approach a professional association for help in assessing professional competence, we do not think that a properly constituted hearing committee should postpone its work to allow professional associations to complete parallel dismissal hearings.

SIMON FRASER UNIVERSITY DISPUTE II[1]

I

The first report on the Simon Fraser University dispute with members of the P.S.A. Department was dated 10 December 1969, and was published in the Winter, 1970 *C.A.U.T. Bulletin*. At that time eight P.S.A. faculty members had been suspended, and dismissal procedures had been initiated against them. A number of problems seem to have beset the dismissal procedures which were very slow in getting underway. So slow, in fact, that at its meeting on 18 June 1970, the Executive Committee of the C.A.U.T. adopted the following resolution:

> In light of the lengthy delays in appeals on tenure and renewal and in dismissal procedures for a large number of faculty in the P.S.A. Department at Simon Fraser University, and in light of the urgent concern on these matters expressed by the Canadian Sociology and Anthropology Association, the American Anthropological Association and the Committee of Enquiry of the American Sociology Association, the C.A.U.T. hereby establishes a Committee of Enquiry, of three members, to investigate and report on the present status of suspensions, dismissal procedures, and appeals of faculty in the P.S.A. Department at Simon Fraser University, and in particular to report on the circumstances which have contributed to the failure to complete dismissal procedures instituted on 3 October 1969.

That committee was formed with Professor A. E. Malloch (Chairman of the Academic Freedom and Tenure Committee) as chairman; Professor Leo Kristjanson (University of Saskatchewan), a member of the Executive Committee of C.A.U.T.; and Professor I. D. Pal (University of Victoria), a member of the A.F. & T. Committee. The preliminary work of the committee was done by correspondence, and this was followed by a visit to the Simon Fraser campus on 20-22 July. Before the committee had time to complete its enquiry, however, a major controversy developed around the Palmer Committee.

The Palmer Committee was established under the provisions of the Statement on Academic Freedom and Tenure of Simon Fraser University to determine whether there was cause for dismissal of six[2] faculty members of the P.S.A.

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1. This report was written on the basis of documentation received. It was then submitted to the A.F.&T. Committee on 17 September who ratified the Executive Secretary's action. A resolution was then passed by the Executive to bring this case before Council at the fall meeting.
2. Eight faculty members were involved in dismissal procedures and suspension; two (Dr. Kathleen Aberle and Professor Nathan Popkin) chose separate arbitrations, while six (Professors Ahmad, Briemberg, Feldhammer, Leggett, Potter, and Wheeldon) chose a joint hearing. The hearings involving Professor Popkin have gone forward before a committee chaired by Professor Gideon Rosenbluth (University of British Columbia). Dr. Kathleen Aberle, after many months of delay and dispute in the formation of her hearing committee, joined the six whose cases were before the Palmer Committee.

Department against whom Dr. Kenneth Strand, President of Simon Fraser, had instituted dismissal procedures (together with suspension) in October 1969.

In keeping with the provisions of the A.F. & T. Statement, the faculty named one member: Professor William Livant, University of Saskatchewan, Regina; and the University named one member: Professor J. S. Dupré, University of Toronto. Because those two failed to reach agreement within the stipulated time period, the Chief Justice of the Supreme Court of British Columbia, in keeping with the A.F. & T. Statement, was asked to name the chairman. He selected Professor E. E. Palmer, Associate Dean of Law, University of Western Ontario. The section of the A.F. & T. Statement on dismissals is reproduced here as Appendix I.

The Committee had one meeting on 15 May 1970, primarily on procedural matters. It adjourned until a judgment should be handed down in a civil court case being heard before the Supreme Court of British Columbia (Wheeldon *v.* S.F.U.) on the legal status of the A.F. & T. Statement. The essential question in that case was whether the Statement constituted a term of faculty contract. The Court decision, dated 18 June 1970, was that the Statement "forms no part of the contract of employment."

The Palmer Committee met again on the 21 and 22 July; at this time, in the language of the Palmer Committee Report, "procedural matters concerning the conduct of these hearings were considered and at the conclusion of which the Committee adjourned to consider certain points raised."

As a result of that consideration the Committee came to a unanimous decision dated 24 July 1970. The Committee, having recognized and reported its obligation as one of extreme importance, requiring that "this Committee ensure that a just and equitable decision be reached by the use of procedures which are themselves just, equitable, and in accord with the Statement on Academic Freedom and Tenure which brought us into being," announced its decision that "there is no cause for dismissal," and that "therefore, the President may not recommend dismissal to the Board of Governors." (See Appendix II.) The grounds for this decision will be discussed in Section II of this report.

The Palmer Committee judgment was challenged by President Strand on 26 July. Dr. Strand had already distributed copies of the Decision to the seven faculty members affected. Widespread publicity on the Decision was rapid; a special edition of *The Peak*, the S.F.U. student newspaper, appeared on 27 July containing the text of the Palmer Committee Decision and Dr. Strand's statement of position dated 26 july. (See Apendix III.)

The A.F. & T. Statement provides that "the President may ask the committee to reconsider its decision if he questions the procedures." This President Strand did on 28 July. On 29 July the Palmer Committee's telegrammed response was issued. The Committee unanimously affirmed that its original decision was correct. (See Appendix IV.)

The S.F.U. Faculty Association Executive requested from Dr. Strand the complete transcript of the hearings, and urged C.A.U.T. to do the same, so that both groups might satisfy themselves as to the propriety of the Palmer Decision. The Chairman of the C.A.U.T. Committee on Academic Freedom and Tenure declined this proposal in the following telegram (29 July 1970):

> *I am sorry but I cannot accept your suggestion that the C.A.U.T. Academic Freedom and Tenure Committee examine the transcript of the Palmer hearings. Your local A.F. & T. document contemplates no further review of a negative decision from a duly constituted hearing committee,*

neither by S.F.U. Faculty Association, nor by joint faculty, nor by A.U.C.C., nor by C.A.U.T., nor by any other body. The A.F. & T. Statement can of course be revised by joint agreement of your Faculty Association and Board of Governors, but it cannot be altered in the middle of a dismissal case simply because the agreed procedures have yielded results that are disappointing to one of the disputing parties.

A. E. Malloch
Chairman, A.F. & T. Committee
C.A.U.T.

On the same day, the Chairman of the A.F. & T. Committee communicated to Dr. Strand and the Chairman of the Board of Governors the following message by Telex:

I understand that you have requested the Palmer Committee to reconsider its report, that the Palmer Committee has unanimously reaffirmed its report of 24 July. I urge you now to accept that report, however unpalatable it may be, and to lift immediately the suspensions of the seven P.S.A. faculty members. The local A.F. & T. document contemplates no further review of a negative decision from a duly constituted hearing committee, neither by S.F.U. Faculty Association, nor by joint faculty, nor by A.U.C.C., nor by C.A.U.T., nor by any other body. In my judgment you will be taking the University of which you are chief executive through a long and unnecessary episode of bitter controversy if you choose to disregard the final Palmer Report. Copies by day letter through Thursday to Mackauer and P.S.A. group.

A. E. Malloch
Chairman, A.F. & T. Committee
C.A.U.T.

And in response to a Telex communication of Dr. Strand's position sent personally to Professor J. Gordin Kaplan, President of C.A.U.T., President Kaplan sent the following Telex reply, with a copy to the Chairman of the Board of Governors, on 30 July 1970:

Further consultation on Palmer Committee Report convinces me to urge you to accept as binding their judgment in the case of the seven PSA Faculty members. The Palmer Committee was duly constituted in accordance with the Simon Fraser Academic Freedom and Tenure document and in the spirit of the C.A.U.T. Guidelines. We clearly cannot admit rejection of the findings of such a committee by either party. I further urge you to lift the suspensions of the seven now, consistent with your undertaking so to do following decision of tribunal. I recognize the personal difficulties which such an action would cause you but I plead with you to do so nevertheless for the sake of Simon Fraser University.

J. G. Kaplan
President, C.A.U.T.

On the same date, 30 July, Dr. Strand issued the following public statement:

In view of the failure of a three-member committee to reach any valid decision regarding the dismissal of seven members of the Department of Political Science, Sociology and Anthropology, I am proposing that another committee be set up to conduct a proper hearing at which evidence will be taken and grounds for dismissal considered. Only in this way can a decision be reached that properly reflects the due processes

implicit in the Statement on Academic Freedom and Tenure which protects Simon Fraser faculty members from wrongful dismissal.

In effect, the first committee disqualified itself by failing to hear evidence and by concluding, as stated in its report, that no fair and just hearing was possible. Any judgment it offered in these circumstances could only be ludicrous, not because of what the judgment was, but rather because of the process by which it was reached.

So, I am offering a hearing by a new three-man committee. As previously, each side to the dispute is to have the opportunity of naming one committee member, with a chairman mutually acceptable or named by the Chief Justice of the Supreme Court of B.C. This offer is being hand-delivered today to those within easy distance and telegraphed to those now outside of Canada.

The recipients have been asked to respond by next Tuesday, August 4th. Failure to do so will be taken as rejection of the right to a hearing.

The S.F.U. Faculty Association Executive issued a memorandum (undated) to all S.F.U. faculty members which in effect supports Dr. Strand's position. This statement appears as Appendix V to this report.[3]

II

In rejection of the decision of the Palmer Committee Dr. Strand has repeatedly emphasized that as President of the University he is custodian of the Statement on Academic Freedom and Tenure. He alleges that the Committee did not follow its provisions and has therefore invalidated any decision it might make.

In his public statements the example Dr. Strand cites most consistently of procedural rulings upon which he was entitled to insist for the defense of the A.F. & T. Statement is that the hearings not be open (the S.F.U., A.F. & T. Statement explicitly calls for closed hearings). But the Committee takes no issue with Dr. Strand on the question of openness. Since there is no evidence that the Hearing Committee wished to contravene the provisions of the Statement in this regard, Dr. Strand's raising it as an issue after the fact can only be regarded as misleading.

However, the examples cited by the Palmer Committee in its two decisions are *not* in areas explicitly covered by the Statement. The Committee cites Dr. Strand's interpretation that he has the power to discontinue the activities of the Committee by not appearing at a hearing; and his insistence that *no* decision on Dr. John Leggett will have force after August 31, 1970, the date of expiry of Dr. Leggett's present contract.[4]

Two points seem important here, before coming to the main issue of the Palmer decision. Neither example cited above is explicitly covered by the A.F. & T. Statement; therefore by definition both are subject to interpretation and ruling. It is quite extraordinary that the President should regard himself as the final authority in interpreting the Statement where its provisions allow room for alternate readings. The Statement itself definitely does not give the

3. In the course of the next week or so, the President of the Canadian Sociology and Anthropology Association (CSAA) sent a telegram to Dr. Strand (9 August) urging that he abide by the report of the Hearing Committee. A similar message was sent to Dr. Strand by the President of the Canadian Political Science Association, and by the Executive Board of the American Anthropological Association. These messages appear as Appendix VI to this report. The text of the CSAA resolutions following the dismissal of Drs. Aberle and Potter also appears in Appendix VI.
4. These instances are cited as examples, rather than as an exhaustive listing.

President this authority, virtually that of a Supreme Court judge ruling on the procedures of a lower court before which at the same time he is appearing as the prosecutor.

On the interpretation that a decision on Dr. Leggett after 31 August will not be accepted because Dr. Leggett will no longer be a "*member of faculty*," there is certainly much room for argument. It does not appear clear how in defending his interpretation the President was protecting the integrity of the Statement. The issue here is whether the President's authority to impose his interpretation on a properly constituted Hearing Committee in this matter can be supported. If the President insists on his right to impose his interpretation in this instance, where the Statement allows of more than one possible ruling, what assurance can there be that similar impositions might not be forced on other matters ? And indeed if the President can accept or reject interpretations at the same time that he is one of two parties to a dispute, how can an impartial hearing be assured ?

The Statement gives the President the right, cited above, to "ask the committee to reconsider its decision if he questions the procedures." The provision which follows immediately thereafter in the Statement reads: "The President will not recommend dismissal to the Board of Governors if the Hearing Committee finds there is no cause for dismissal." The President did question the procedures, and did ask the Committee to reconsider. The Committee reconsidered, and reaffirmed its original decision. The President then rejected the second decision. His rejection is based on the argument that the A.F. & T. Statement was not followed because no hearing of evidence on the charges took place.

Here we come to the main issue arising from the Palmer Committee decision. On basic principle the A.F. & T. Statement is clear: the President may not dismiss a faculty member except for cause. The President can recommend dismissal to the Board of Governors only if the hearing committee finds there is cause for dismissal. On this point the Statement is totally unambiguous. Section 4.1.g. reads: "Unless and until the Hearing Committee recommends that the faculty member involved be dismissed, and the Board of Governors acts upon such recommendation from the President, the faculty member shall retain his position in the University at his full salary..." Clearly the task of a hearing committee is to determine whether such cause has been proven by those who lay charges for dismissal.

The Palmer Committee judgment affirms as axiomatic that "a fair and just decision can only be reached by fair and just means." That is, they asserted that they could only determine cause following a fair and just hearing. The Committee then reached its "unanimous and unalterable conclusion that the faculty members involved cannot be insured a just and equitable hearing." A fair and just hearing had been precluded by the acts of the President which had contradicted the proper separation of the roles of prosecutor and judge — a separation which requires that the Committee and not the President interpret the A.F. & T. Statement. "It follows," in the words of the Committee Decision, "that he cannot prove such just cause."

The response of the Committee to Dr. Strand's request that it reconsider its judgment stated that the objections brought by Dr. Strand to the original decision "reinforce the validity of this decision." The Committee stated its "continued unanimous and unaltered opinion" that the A.F. & T. Statement vests the obligation to make final interpretations in the hearing committee. It considers itself bound by the Statement on Academic Freedom and Tenure, but insists that the President is not the final arbiter of its provisions. The

Committee stated, "we cannot accept that under the Statement on Academic Freedom and Tenure a party can be both prosecutor and judge," and asserts that the President is "totally confusing the executive and judicial functions."

The thrust of the C.A.U.T. Policy Statement on Academic Appointments and Tenure is to assure that a duly constituted committee of peers shall be empowered to determine, through fair and impartial procedures, whether cause for dismissal exists. Such committees are vested, in the C.A.U.T. Guidelines, with the power to make decisions that shall be binding on both parties. The careful attention which the Guidelines give to the composition of the hearing committee, and to its procedures, is clearly a reflection of the basic assumption that fair decisions can be reached only through fair means. Were that not the case, it would be easy to argue for — and more economical to implement — an arbitrary power of dismissal in the President and Board of Governors, allowing for some possibility of appeal only in cases of obvious and manifest injustice. That is, to establish a procedure in which only the demonstrably innocent are entitled to a fair trial.

C.A.U.T. has rejected that approach. It must now deal with the rejection by a University President of the decision of a duly constituted hearing committee which has decided that cause for dismissal cannot be proven because the same President, who initiated the procedures, has not allowed a fair trial to take place.

The logic of the Palmer Committee Decision seems clear.[5] It may be summarized in a series of six propositions:

1) The President can only recommend dismissal if the Hearing Committee finds there is cause.

2) The Hearing Committee can find there is cause only through a fair and just hearing.

3) A fair and just hearing requires the separation of the roles of prosecutor and judge.

4) That separation requires that the Hearing Committee have the power to interpret the A.F. & T. Statement where it speaks, and to make its own rulings where the Statement is silent.

5) Because the President has refused to accept that separation, a fair hearing is impossible; therefore the Hearing Committee cannot find there is cause for dismissal.

6) Because the Hearing Committee has not found that there is cause for dismissal, the President cannot recommend dismissal.

III

The results of President Strand's ultimatum that the seven P.S.A. faculty members must agree to a second hearing or face dismissal were strangely mixed. Four faculty members — Professors Ahmad, Briemberg, Feldhammer and Wheeldon — agreed to a second hearing under protest. They claimed that they did so only because otherwise they would be "fired outright;" at the same time they reaffirmed their conviction that the decision of the Palmer Committee ought to be regarded as binding and unchallengeable.

In the case of a fifth faculty member, Dr. Leggett, the President lifted suspension and rescinded dismissal charges, on the ground that Dr. Leggett's

5. The first draft of this report reads "clear and unassailable." This is technically incorrect, since it **has** been assailed, by Dr. Strand among others. His comments appear on p. 84 of this issue.

present contract expires on 31 August 1970. No acknowledgement appears to have been made of the fact that Dr. Leggett was still protesting the irregularity of the decision of the University Tenure Committee not to renew his contract or grant tenure, irregularities that have convinced the S.F.U. Faculty Association Executive that Dr. Leggett might be entitled to a one-year extension of contract so that appropriate reconsideration of the original tenure decision can take place.

The Executive Secretary wrote to Dr. Strand on 7 August pointing out Dr. Leggett's right to an appeal against the decision of the University Tenure Committee of 25 August 1969. To date, no clear information has been received.

Two faculty members, Drs. Kathleen Aberle and David Potter, refused the proposal for a second hearing committee. Dr. Aberle's letter to Dr. Strand of 3 August appears as Appendix VII.

The Central Office of C.A.U.T. was notified late on Friday, 14 August, that a meeting of the S.F.U. Board of Governors had been called for Sunday, 16 August to consider the recommendation of the President for the dismissal of Drs. Aberle and Potter. The Executive Secretary sent the following telegram to Dr. Strand and to Mr. Richard Lester, Chairman of the Board of Governors:

> *Urge once again that Palmer Committee decision be regarded as final. Convinced that setting aside decision not required to uphold S.F.U. A.F. & T. Statement. Convinced further that dismissal of Dr. Kathleen Aberle and Dr. David Potter in serious violation of C.A.U.T. Guidelines which can lead only to most serious sanctions of C.A.U.T. against President and Board of S.F.U. If amplification of C.A.U.T. judgment requested most happy to comply.*

The Board did meet on 17 August, and formally dismissed Drs. Aberle and Potter, effective that date, and with three months' salary to 17 November 1970.[6]

A. Berland
Executive Secretary, C.A.U.T.

26 August 1970.

6. Dr. Mackauer's letter to Dr. Strand on the dismissal of Drs. Aberle and Potter appears as Appendix VIII.

APPENDIX I

S.F.U. Statement of Academic Freedom and Tenure

Section IV — Dismissal Procedures

4.1 No faculty member shall be dismissed except for cause. Before dismissal procedures are formally instituted, the faculty member's Department Head or Chairman shall discuss the matter with him. If agreement is not reached the faculty member shall have the right to a formal hearing, conducted according to the following procedures:

a. Formal dismissal procedures can only be initiated by the Dean of the Faculty, Vice-President, Academic, or by the President. The faculty member involved shall be informed in writing by the Dean, the Academic Vice-President, or by the President of the grounds for dismissal and any charges upon which those grounds are based.

b. If formal procedures are necessary the President will set up a Hearing Committee to determine whether there is cause for dismissal. The faculty member will be given a reasonable period of time to prepare his defence.

c. The Hearing Committee shall be composed of three members who are faculty members with tenure at a university. One member shall be named by the aggrieved faculty member, a second member shall be named by the President, and the two nominees shall then select a mutually acceptable third member who shall be Chairman of the Committee. If any impasse in selecting a Chairman is not resolved within three weeks, the power of appointment of the Chairman shall be vested in the Chief Justice of the Supreme Court of British Columbia or by his designate if the Chief Justice is a member of the Board of Governors of any university.

d. (i) The faculty member involved may appear in person at his Hearing and may be represented by counsel, who may be a practising lawyer or some other representative chosen by the faculty member.

(ii) All parties and their counsel have the right to cross-examine.

(iii) All parties involved are permitted to appear with counsel at all hearings of the Hearing Committee.

(iv) Only the grounds for dismissal and evidence relevant thereto shall be considered by the Hearing Committee. The originators of the charges shall be present.

(v) At least two weeks' notice of the time and place of the Hearing should be given to all persons concerned.

(vi) The hearings shall be held in camera and the evidence kept confidential.

(vii) The decision shall be by majority vote.

e. The Hearing Committee shall report its decision to the President. The President may ask the committee to reconsider its decision if he questions the procedures. The President will not recommend dismissal to the Board of Governors if the Hearing Committee finds there is no cause for dismissal.

f. Within one week of the termination of the Hearing, the President shall send to the faculty member involved a statement of the findings of the Hearing Committee. Access to the transcript must be provided to the faculty member or his counsel if such is requested.

g. Unless and until the Hearing Committee recommends that the faculty member involved be dismissed, and the Board of Governors acts upon such recommendation from the President, the faculty member shall retain his position in the University at his full salary. He may be temporarily relieved of his duties at his own request, or he may be suspended temporarily from teaching by the President. Suspension does not mean loss of pay.

4.2 If dismissed, a faculty member shall continue to receive full salary for not less than three months from the date of notification of dismissal.

APPENDIX II

The Palmer Committee Report

In the matter of a hearing relating to dismissal charges brought by Dr. K. Strand, President of Simon Fraser University, against Professors K. Aberle, S. Ahmad, M. Briemberg, L. Feldhammer, J. Leggett, D. Potter and P. Wheeldon.

DECISION

Pursuant to Article IV (1) (c) of the Statement on Academic Freedom and Tenure, approved as amended by the Faculty Association and Board of Governors of Simon Fraser University and dated 23 July 1969, the present Hearing Committee was constituted to determine whether certain charges initiated by Dr. K. Strand, President of Simon Fraser University, and sent by letters dated 17 October 1969 to Professors K. Aberle, S. Ahmad, M. Briemberg, L. Feldhammer, J. Leggett, D. Potter and P. Wheeldon, faculty members at that University, constituted cause for their dismissal. Hearings concerning this matter were held at the University on the 15th of May 1970 and the 21st and 22nd of July of the same year, during which procedural matters concerning the conduct of these hearings were considered and at the conclusion of which the Committee adjourned to consider certain points raised. The following constitutes the unanimous opinion of the Committee.

Initially, the Committee wishes to point out what it conceives to be its obligations, status and power under the Statement on Academic Freedom and Tenure mentioned above. Quite clearly, the obligation imposed upon us is, in the words of the Statement, "to determine whether there is cause for dismissal" of the faculty members involved [Art. IV (1) (b)]. Such an obligation is one of extreme importance and requires that this Committee ensure that a just and equitable decision be reached by the use of procedures which are themselves just, equitable and in accord with the Statement on Academic Freedom and Tenure which brought us into being. The importance and difficulty of this task are heightened by a decision of the Supreme Court of British Columbia whose effect is to render the Statement on Academic Freedom and Tenure one which will not be interpreted by judicial bodies, and one for which the normal processes of law will not be available to assist those who are so doing. As the Committee is unable to compel persons to act, it follows that the greatest degree of co-operation of all parties to this investigation is essential to ensure that a just and equitable outcome results.

During the course of this hearing this Committee has come to the unanimous and unalterable conclusion that the faculty members involved cannot be insured a just and equitable hearing. The basic reason for this conclusion is that Dr. Strand, through his counsel, has informed this Committee that he will only be bound by those Committee interpretations of the Statement on Aca-

demic Freedom and Tenure that he wishes to obey. This general statement has been confirmed by several explicit assertions. Dr. Strand, through his counsel, has declared that his interpretation of the Statement on Academic Freedom and Tenure is that this Committee cannot further consider the case of any faculty member involved whose contract terminates during the hearing. He has stated unequivocally that he will not accept any contrary interpretation by this Committee.

In the case of Professor Leggett, whose contract terminates on 31 August 1970, a date which all parties recognize will come before all evidence has been heard, Dr. Strand, through his counsel, has again unequivocally and repeatedly informed this Committee that, even though this Committee may make a contrary interpretation, he will regard this Committee as having no capacity to deal with Professor Leggett after 31 August 1970.

Similarly, Dr. Strand has unequivocally and repeatedly informed this Committee that, because the statement stipulates that the originator of the charges "shall be present" at committee meetings [Art. IV (1) (d) (iv)], he, rather than incur an obligation to the Committee to be present, can extinguish the life of the Committee through his absence at any time. He has made it plain that he is not open to a contrary interpretation.

It is evident that President Strand takes the position that he can determine the existence of the Committee by unilateral and personal interpretation. This view was clearly articulated by the characterization of this Committee at the hearing as an administrative arm of the University. The arrogance of this characterization is appalling. If this position were accepted by this Committee, the President of Simon Fraser University could treat it as a toy, whose rulings he could observe or violate as it suits him. The President's attitude that this Committee is a plaything is also evident from the fact that he agreed, together with the faculty, to allow this Committee to retire in order to make certain rulings of interpretation. However, if some of these rulings were to be decided by the Committee in a certain way, the President had stated he would reject the findings.

On all the above grounds, we therefore conclude that the faculty members cannot be assured that any ruling of ours will be implemented by the other party. As well, we cannot guarantee these faculty members complete procedural protection. As noted earlier, we are empowered and obligated by the Statement on Academic Freedom and Tenure to determine whether there is just cause for dismissal. It is President Strand's obligation, as the originator of the dismissal charges, to prove such cause. It is trite law and the common understanding of all involved in the university community that a fair and just decision can only be reached by fair and just means. As a fair and just hearing has been precluded by the acts of President Strand, mentioned above, it follows that he cannot prove such just cause. Therefore we find unanimously that there is no cause for dismissal of the faculty members involved and that, therefore, the President may not recommend dismissal to the Board of Governors [Art. IV (1) (e)].

Dated at Vancouver this twenty-fourth day of July, 1970.

E. E. Palmer, Chairman
J. S. Dupré
W. Livant

APPENDIX III

Statement by the President on the Palmer decision

On July 24, 1970, the Hearing Committee, under Section IV of the Statement on Academic Freedom and Tenure, met to hear the dismissal charges I brought against seven faculty members. It has issued what purports to be a *decision* on the merits of the case. It is not a decision on the merits of the case and I reject it as such. Due process has not been followed.

In its opinion, the panel comes to what it describes as a "unanimous and unalterable conclusion that the faculty members involved cannot be insured a just and equitable hearing." In support of this conclusion, it chooses to represent incorrectly my position before the hearing panel. For details, please see the attached comment on the Hearing Committee Decision.

The Hearing Committee came into being under Section IV of the Statement on Academic Freedom and Tenure and the faculty members were entitled to a hearing *under the procedures stated.* It was my position that the faculty members were not entitled to a hearing under procedures that *they* might demand, or under *substitute* procedures that the panel might prefer, or under procedures that *I* might prefer. My position was that the due process to which they were entitled was a hearing under the Academic Freedom and Tenure provisions adopted by this University. As President, I could not responsibly take any other position.

Through counsel, I stated that on procedural questions where the Statement on Academic Freedom and Tenure is silent, I would be bound by the panel's procedural ruling. However, I indicated that the hearing could not be conducted under procedures which were *contrary* to those contained in the Statement on Academic Freedom and Tenure. Under the Statement on Academic Freedom and Tenure, the President is responsible to see that its procedures are observed. Section 4.1 e., for example, provides that the Hearing Committee shall report its decision to the President and the President may ask the Committee to reconsider its decision if he questions the procedures. So that I could be witness to the procedures, I elected to be the "originator of the charge" under Section 4.1 d. (iv) which provides that "Only the grounds for dismissal and the evidence relevant thereto shall be considered by the Hearing Committee." I realized that by electing to be the originator of the charge I had undertaken a commitment that bound me to be present. At no time did I fail to appear or threaten not to appear.

I have said that I am morally obligated to follow the document on Academic Freedom and Tenure. My moral obligation is not one-sided, nor are the moral obligations to the Statement on Academic Freedom and Tenure one-sided. When I pledged myself to be bound by the Statement on Academic Freedom and Tenure, I obligated myself to observe the procedures and to see that others observed the procedures. The first, I have done by my actions. The second, I have attempted to do both by argument and by action.

Since its appointment, the Committee has met for only two days. It heard only procedural arguments. It recessed, ostensibly to rule on procedural matters. It reconvened and without hearing any evidence on the charges, it rendered its verdict. It chose to deliver a final decision which impunes my motives for making procedural arguments, arguments I was bound by the Statement on Academic Freedom and Tenure to make (i.e. against openness, etc.). The Committee leaped from hearing procedural questions as to how evidence should be heard, to a conclusion *on the merits of the dispute* without hearing *either evidence or argument on the charges from either party.* I find this behaviour incomprehensible.

The Committee arrived at "... the unanimous and unalterable conclusion that the faculty members involved cannot be insured a just and equitable hearing." Why ? In my opinion, when the Committee was confronted with the faculty members' arguments that certain of the Academic Freedom and Tenure dismissal procedures should be unilaterally changed by the panel, the panel failed to make the obvious decision it had to make, namely, that it was morally bound to follow the procedures under the Statement on Academic Freedom and Tenure. Each member knew of these procedures before accepting appointment to the Committee.

Decisions on the merits of a case are to be made after the panel has considered "*only the grounds for dismissal and the evidence relevant thereto.*" This panel has not only failed to make a *decision on the merits in this case,* but it has brought unwarranted discredit upon the Statement on Academic Freedom and Tenure.

There are two questions which members of the University community must consider. The first is the charge that by my insistence on the procedural rules of the Statement on Academic Freedom and Tenure I was "unjust and unfair". As the President of the University, I cannot violate Academic Freedom and Tenure procedures. As a Committee formed under this document, the hearing panel is obliged to follow the rules in the document. The best judge as to whether I am at fault or whether the Committee shirked its responsibility is the Executive of the Faculty Association who are responsible, along with me, in preserving the due process of the Academic Freedom and Tenure document. The Executive of the Faculty Association has requested access to a copy of the transcript. I intend to make it available.

The second and larger question is whether due process has been served by the Committee. A charge against seven faculty members was laid by me. A Committee was charged to hear the evidence and come to a verdict. This Committee chose to make a decision without hearing any evidence. Members of the University community will have to judge whether a trial where no evidence is heard constitutes due process. My position is that it does not.

K. Strand, President,
July 26, 1970 Simon Fraser University

APPENDIX IV

Telegram

29 July 1970
9.00 a.m.

Dear Dr. Strand

We wish to acknowledge your telegram dated July 28th 1970 augmented by supporting material made available to us by telephone from your office. The faculty members involved upon being contacted by us have preferred to let your arguments stand on their merit. After carefully reconsidering our decision dated July 24th 1970 we now inform you that in our unanimous opinion that our original decision was correct.

Indeed we hold the view that the points you have brought to our attention reinforce the validity of this decision. Specifically and simply the issue appears to be whether the requirements of the Statement on Academic Freedom and Tenure for the purpose of this hearing should be finally interpreted by yourself or this Hearing Committee. It is our continued unanimous and unaltered opinion that this Statement vests the obligation to make final interpretation in the Hearing Committee.

You have asserted that we purported to reach a decision on the merits of the case. It is our view that this is inaccurate. Our decision makes it clear that we were precluded from reaching such a result by your own actions. This is because you stated that you would refuse to abide by certain decisions of the Hearing Committee on the meaning of the Statement on Academic Freedom and Tenure with which you disagreed. Therefore because we could not ensure that you would obey Hearing Committee interpretations of the Statement it follows that we could not conduct a hearing in accordance with our understanding of this Statement that accordingly you could not show cause for dismissal and that hence the faculty members could not be dismissed. Any other decision would be illogical and in our opinion abdication of our responsibility under the Statement on Academic Freedom and Tenure. If it is of any assistance we are pleased to place in perspective the general attitude which leaves the Hearing Committee to take issue with you by citing a concrete example. You have explicitly interpreted the Statement on Academic Freedom and Tenure to mean that once an employee's contract has terminated there is no longer reason to consider the grounds for his dismissal. We take the view that while you are fully entitled to make a case for this interpretation you have no right whatsoever to preclude a contrary interpretation by this Committee. Indeed it is entirely possible to reach a contrary interpretation if the stance you take in another context is adopted namely that hearing all the evidence is a necessary prelude to a just decision. Your interpretation of the disposition of Professor Leggett's case for instance would result in interpretation of his hearing after only partial evidence had been heard.

Clearly we consider ourselves bound by the Statement on Academic Freedom and Tenure as you also profess to be. We do not agree however that you are the final arbiter of the provisions of this document. The divergence between you and the Committee is vast. We cannot accept that under the Statement on Academic Freedom and Tenure a party can be both prosecutor and judge to the extent that you take the contrary position and attempt to justify it by saying that the Committee as an administrative arm of the University is in any way subject to you as the University's Chief Executive Officer. You are in our view totally confusing the executive and judicial functions.

Given this fundamental divergence on the meaning of the Statement on Academic Freedom and Tenure and its requirements for a fair and just hearing we reaffirm our decision in this matter.

Letter follows with text of telegram.

E. E. Palmer
J. S. Dupré
W. Livant

APPENDIX V

To: All S.F.U. Faculty Members

From: Faculty Association Executive Committee

On 30 July 1970, the Executive of the Faculty Association rejected the decision of the Palmer Committee regarding dismissal charges against Professors Aberle, Ahmad, Briemberg, Feldhammer, Leggett, Potter and Wheeldon, of the P.S.A. Department. The motion to reject was passed by a majority of 7-1.

At the same time, the Executive asked President Strand to offer the seven affected faculty members a hearing under Section 4 of the Statement on Academic Freedom and Tenure.

The decision of the Executive is in conflict with the position taken by Professor Malloch, chairman of C.A.U.T.'s Committee on Academic Freedom and Tenure. Professor Malloch's position basically is that the decision of a duly constituted committee is binding on both parties and must be accepted. Professor Malloch also stated that the local A.F. & T. documents do not contemplate further review of a negative decision, either by the S.F.U. Faculty Association or by other bodies.

Because the issues at stake are of such paramount importance and may have potentially far-reaching consequences, the Executive wishes to inform all faculty members of the grounds for its decision.

In our view, the decision of the Palmer Hearing Committee raises two points of almost equal importance.

The first and, in our view, the overriding issue is the need to protect the Statement on Academic Freedom and Tenure and to safe-guard the rights of faculty on campus.

The second issue is the need to protect the independence of a duly constituted committee.

We considered the following factors in arriving at our decision.

(1) The Statement on Academic Freedom and Tenure has no status under law (Decision of Mr. Justice Hinkson in Prudence Wheeldon *v.* Simon Fraser University, 19 June 1970).

It follows from the court's decision that the Statement is only morally binding, i.e. it is binding only on those parties of the university community that voluntarily agree to abide by it.

(2) The Palmer Hearing Committee came into being under the Statement on Academic Freedom and Tenure (Decision, p. 2. 11).

(3) The Palmer Hearing Committee was duly constituted according to Section 4.1 c of the Statement.

(4) The Palmer Hearing Committee heard only arguments on "procedural matters concerning the conduct of these hearings" (Decision, p. 1. 2).

(5) The Palmer Hearing Committee recognized its obligation to "determine whether there is cause for dismissal" (Decision, p. 2. 3).

(6) The Palmer Hearing Committee found that "the faculty members involved cannot be ensured a just and equitable hearing" (Decision, p. 2. 25), because of President Strand's attitude to be found only "by those Committee interpretations of the Statement on Academic Freedom and Tenure that he wishes to obey" (Decision, p. 2. 29).

The last point is brought more sharply into focus in Professors Palmer, Dupré and Livant's reply to President Strand's request to reconsider their decision. In its reply, which was published in *The Peak* (Vol. 15 (12): 1), the committee declares to be of the "unanimous and unalterable opinion that this Statement (on Academic Freedom and Tenure) vests the obligation to make final interpretation in the Hearing Committee".

Even if one were prepared to accept the Palmer Committee's opinion in this regard, the Committee, by its own admission, heard only procedural arguments. The Committee did not rule on which procedures to follow, nor did it indicate which procedures it preferred to follow if those of the A.F. & T. Statement were not acceptable of it. Thus, in our view, the Committee's contention is not

proved that it was prevented from conducting a just and equitable hearing. In fact, the transcript of the hearing verifies President Strand's claim that he followed procedures as specified in the Statement to the letter and, in addition, insisted that others including the hearing panel accept those procedures as binding. (We want to emphasize here that the Executive would not necessarily agree with all of President Strand's arguments.)

The position taken by Professor Malloch, of C.A.U.T., rests on the firm belief that a decision rendered by a duly constituted committee which acts under the Statement on Academic Freedom and Tenure in a dismissal hearing, is inviolable. The Executive agrees with Professor Malloch on this point but with the proviso that such a committee must accept the procedures of the Statement to ensure all parties of due process.

The Executive cannot disagree with President Strand that, as a consequence of Wheeldon *v.* Simon Fraser University, the President and the Board of Governors are only morally obligated to follow the Statement on Academic Freedom and Tenure. Faculty members, if they so chose, are entitled to due process under the provisions of the Statement — but, if they do not so chose, must accept the decision of the Board of Governors acting under the powers given to it under the Universities Act.

Although the Palmer Hearing Committee was constituted in accordance with Section 4.1 c of the Statement on Academic Freedom and Tenure it clearly did not base its decision on evidence relevant to the grounds for dismissal, as demanded in Section 4.1 d (iv) of the Statement. Therefore, the Palmer Committee, in our view, did not conduct a hearing in accordance with our Statement on Academic Freedom and Tenure.

Further, the seven affected faculty members must now be given the opportunity of a hearing so that the charges may be impartially assessed that were brought against them by President Strand.

It is the understanding of the Executive that any new hearing is to be conducted strictly in accordance with both the letter and the spirit of the Statement on Academic Freedom and Tenure and that the decision of the Hearing Committee is binding on all parties.

APPENDIX VI

Telegram

6 August 1970
4.24 P.M.

President Strand

We are very distressed to hear you do not intend to accept the recommendations of the Palmer Committee. We consider that Simon Fraser University is morally if not legally bound to accept the unanimous conclusions of this properly constituted independent investigation committee. Faculty-administration relations cannot be carried out in haphazard fashion without regard for due process. We therefore strongly urge you to abide by the judgement of the Palmer Committee without further delay.

Gilles Lalande, President,
John Trent, Secretary Treasurer,
Canadian Political Science Association.

Telegram

9 August 1970

President Strand

In the strongest possible terms I wish to urge you to abide by the Report of the Hearing Committee by lifting the suspensions and reinstating to their full rights and duties all seven of the faculty involved. We fully support the position of the C.A.U.T. as stated in telegram to you by Professors Malloch and Kaplan. Any action taken by you contrary to the decisions of this properly constituted tribunal will be a most serious blow to widely accepted orderly procedures in the Canadian academic community. No action of the faculty involved or any other group could be more destructive of Simon Fraser University than failure on your part to accept the findings of the Committee and the C.A.U.T.'s judgement. I wish to reaffirm the C.S.A.A. resolutions sent to you on May 31 calling for suspension of dismissal proceedings, reinstatement of the faculty involved, an independent inquiry and regular appeal procedures in which we are willing to assist. Acceptance of such procedures will do much to restore the moral integrity of Simon Fraser University and its respectability in the community of scholars.

Jan J. Loubser, President,
Canadian Sociology and Anthropology Association.

Telegram

15 August 1970

The Executive Board of the American Anthropological Association releases herewith the recommendations contained in the report of its special committee of inquiry into the violations of academic freedom and tenure at Simon Fraser University alleged by Professor Kathleen Gough Aberle, and particularly draws these to the attention of Simon Fraser University, the Canadian Association of University Teachers and the Canadian Sociology and Anthropology Association.

The recommendations by the ad hoc committee regarding Dr. Kathleen Gough Aberle are as follows:

(a) That the dismissal procedures instituted against her be withdrawn now that all relevant investigations regarding her case have been completed. And that any lack of compliance by Simon Fraser University with the decisions of appropriate hearing and investigatory committees be subject to censure by the Canadian Association of University Teachers and other appropriate bodies. We strongly urge the Canadian Association of University Teachers to censure Simon Fraser University for failing to accept the decision of the Palmer Committee.

(b) That the Canadian Association of University Teachers and the Canadian Sociology and Anthropology Association set up a commission of inquiry into all aspects of the organization of Simon Fraser University in the interest of the academic community in general. Both the data and the situations we have analyzed demonstrate the inevitability of social disjunction at Simon Fraser University, whether the Department of Psychology, English, Chemistry, Political Science, Sociology and Anthropology, or any other Department. Our research reveals, for instance, that from its inception in 1965 Simon Fraser University has experienced difficulties in administering its faculty and its students. It is our contention, moreover, that such an inquiry will help place Simon Fraser University

in the context of the community for which it was created. This perspective will not merely give the administration of the University the opportunity to reformulate policy but will also enable the faculty to take stock of its present structural and ideological position.

(c) Through our experience we had a chance to learn some of the difficulties of an anthropological association that is identified with one country reviewing the academic cases arising in another. We urge that ways be explored either to set up international anthropological committees which may be able to operate across national boundaries without offending concerned parties, or to strengthen local bodies which may deal with problems as they arise.

(d) We recommend that the ethnographic and comparative study of universities be treated as urgent research by anthropologists. Two crucial issues which have appeared throughout our study of Professor Aberle's case would appear to be central to urgent anthropological research of universities. First, the patterns of authority within universities, and between universities and the wider community. Second, the development of new processes which will allow universities to mature and develop, indeed to continue to exist as institutions of discovery and learning in the context of healthy controversy.

This statement is being released simultaneously to other interested parties.

E. J. Lehman, Executive Director,
American Anthropological Association.

Resolution of the Executive of the C.S.A.A.

The Executive Committee has received no reply from President Strand of Simon Fraser University in response to the resolution passed by the Annual General Meeting of the Association on May 30th 1970 in Winnipeg and afterward distributed to all members.

Subsequent developments have been most disturbing and distressing. President Strand has rejected the findings of the Hearing Committee consisting of a Chairman appointed by the Chief Justice of the Supreme Court of British Columbia (Professor Palmer), his own appointee (Professor Dupré) and an appointee of the faculty (Professor Livant).

This Committee was duly constituted according to the Simon Fraser University Academic Freedom and Tenure Statement. It concluded that it was impossible to secure an impartial hearing for the faculty, that dismissal procedures should, therefore be voided and the faculty reinstated. According to the Academic Freedom and Tenure Statement, the President does not have the right to reject the findings of the Hearing Committee. In spite of the judgement of the C.A.U.T. and appeals from them and others, including the President of the C.S.A.A., that he should abide by the Palmer Committee decision, President Strand rejected the decision, imposed another Hearing Committee on the faculty, dismissed Kathleen Aberle and David Potter who refused to accept another Hearing Committee and, with incredible cynicism reinstated John Leggett to allow his contract to expire August 31st 1970 with no further recourse or access to appeal. Accepting the decision would have permitted orderly appeals under due process of the contractual and tenure decisions under dispute.

The Executive Committee does not presume to judge the merits of the individual cases as such. We only insist that they be heard and settled under

due process as represented by C.A.U.T. and Simon Fraser University procedures.

We regard these developments at Simon Fraser University with great concern for academic freedom and tenure in Canada. We deplore the absolute intransigence with which Simon Fraser University has met all demands in appeal that proper procedure be followed and due process be available to the faculty involved. In rejecting the decision of the Palmer Committee, President Strand has violated due process in the most arbitrary manner. In dismissing faculty counter to this decision, and imposing another Hearing Committee on the others in the face of the objections from the C.A.U.T., C.S.A.A., C.P.S.A., and committees of the A.S.A. and A.A.A., he has shown the most flagrant disregard for the scholarly community ever displayed by a university president in Canada in recent history. It is inconceivable that this type of conduct should be tolerated in the academic community today.

We appeal to the C.A.U.T. to impose the strongest possible censure measures on President Strand and the Board of Governors of Simon Fraser University. We also repeat the request of the Annual General Meeting that the C.A.U.T. institute an independent inquiry into the administration of Simon Fraser University. The Executive Committee hereby strongly advises members of the C.S.A.A. against accepting positions at Simon Fraser University until such time as it has resolved its present crisis and shows a firm commitment to due process in academic freedom and tenure decisions. We take this step pursuant of the resolution of the Annual General Meeting because we see in these developments a clear and present danger for the discipline at Simon Fraser University.

Under present circumstances we do not believe that the independent inquiry which we have requested all along will be effective in establishing the facts in the dispute over the contract and tenure decisions, since President Strand is clearly not willing to accept such an inquiry or to cooperate with it. We do not see how professional activities in the discipline can be properly carried out under such appalling conditions. The position of the discipline in Canadian universities can only be weakened by reinforcing the present state of affairs at Simon Fraser University. Hence our appeal to all members to avoid and, if possible, to leave that University's employment.

We appeal to departments of Sociology and Anthropology at other Canadian universities and abroad to offer positions to faculty wishing to leave. The Executive of the Association will assist as much as possible in the placement of such faculty. We also appeal to sociologists and anthropologists who are not members of the Association to observe this boycott of Simon Fraser University. We urge the C.P.S.A., A.S.A., A.A.A., British Sociology and Anthropology Association and other national associations to bring this appeal to the attention of their membership and to recommend that they observe the boycott. We also appeal to all sociologists and anthropologists not to accept positions on the second Hearing Committee imposed by President Strand on the faculty, four of whom accepted it under protest. Members are invited to write to the President expressing their opinion and asking any questions they may have. The Fall Bulletin of the Association will contain further information on the events.

Sincerely yours,

Jan Loubser, President,
Canadian Sociology and Anthropology Association.

September 3, 1970

APPENDIX VII

August 3rd, 1970.

Dr. Kenneth Strand,
President, Simon Fraser University.

Dear Dr. Strand:

When I entered the Palmer committee hearing I implicitly bound myself to accept its decision, short of possible appeal to a court of law. You bound yourself explicitly. I could not foresee that my abiding by the committee's favourable judgment would incur your recommendation for dismissal. However, I think I must not allow that to distract me now.

I have said and believe that the committee made a just judgment consonant with its terms of reference under the Academic Freedom and Tenure Statement. Neither you nor the Faculty Association Executive has the right to overturn or appeal the judgment or disqualify the committee. In doing so, and in providing the Faculty Association Executive with the transcript, you have violated Sections 4.1 d (vi), 4.1 e, and 4.1 f, and you appear to be about to violate 4.1 g as well. I am appealing to C.A.U.T. to censure these actions.

I do not accept your argument that the committee disqualified itself by failing to hear evidence. I would argue that its attempts to set up procedural rules led it into the substance of the dispute and that it heard considerable evidence. Neither you nor I, however, have the prerogative of interpreting that. Under the A.F. & T. Statement (4.1 e) "the President may ask the committee to reconsider its decision if he questions the procedures." This you have done. The committee has restated its verdict. All that properly remains is for you to reinstate all the suspended faculty. You have, again, acted completely arbitrarily and cynically by reinstating only one, Professor Leggett, whose contract runs out on August 31st.

Because I uphold the integrity, procedures and judgment of the Palmer committee, I can only regard your proposed further hearing as invalid and a travesty of justice. I therefore reject your offer. Instead of accepting it, I urge C.A.U.T. and Simon Fraser faculty to shoulder the responsibility of defending and implementing the Academic Freedom and Tenure Statement.

Yours sincerely,

Kathleen Gough Aberle.

P.S. Please do not interpret this letter as a resignation. I wish to be reinstated and to return to teaching.

APPENDIX VIII

August 19, 1970.

Dr. K. Strand,
President, Simon Fraser University.

Dear Dr. Strand:

I am urged by members of the Faculty Association Executive to reiterate in writing our position regarding dismissal procedures involving Professors Aberle and Potter, of the P.S.A. Department.

As explained in my letter of 6 August, no action should be taken concerning the two professors until such time as there is a clear resolution of the procedures followed by the Palmer Committee.

While we as an Executive have tendered an opinion regarding the Committee's decision, we have also requested that our opinion and the grounds for our opinion, be examined by C.A.U.T.

We still believe that a mechanism should be sought to obtain an independent opinion in this case, whether through the courts, C.A.U.T., or from some other external source.

Yours sincerely,

M. Mackauer,
Acting President,
Simon Fraser University Faculty Association.

President Strand's Comment on Simon Fraser University Dispute (II)

Given the time available, these comments are limited to Professor Berland's version of the "simple and unassailable" logic of the Palmer Committee Decision which appears at the end of Section II of his report. His logic is simple but hardly unassailable. What is assailable is the relevance of certain propositions and the factual accuracy of others. It is sufficient to examine only Professor Berland's first three propositions.

Professor Berland's first proposition,

> "The President can only recommend dismissal if the Hearing Committee finds there is cause."

is a paraphrase of Section IV of the last sentence of Section 4.1 (e) of the Simon Fraser University Academic Freedom and Tenure Statement which reads:

> "The Hearing Committee shall report its decision to the President. The President may ask the Committee to reconsider its decision if he questions the procedures. The President will not recommend dismissal to the Board of Governors if the Hearing Committee finds there is no cause for dismissal."

Professor Berland's second proposition,

> "The Hearing Committee can find there is cause only through a fair and just hearing."

is not to be found in the Academic Freedom and Tenure Statement of Simon Fraser University. What is to be found is Section 4.1 (d) (iv) which establishes the nature of a "fair and just" hearing. This section reads *inter alia:*

> "Only the grounds for dismissal and evidence relevant thereto shall be considered by the Hearing Committee."

Consequently, Berland's second proposition is inadequate. It should read:

> "A fair and just hearing requires the Hearing Committee to consider only the grounds for dismissal and the evidence relevant thereto before making its decision."

Professor Berland's third proposition shows a misunderstanding of Simon Fraser University's Academic Freedom and Tenure Statement which explicitly provides that the President is one of three University officials empowered to initiate dismissals as well as charging the President with responsibility for

ensuring that Academic Freedom and Tenure procedures are followed. Instead of this confusing proposition, there should be substituted a factually correct proposition which he has chosen to ignore. It is:

> The Palmer Committee heard no evidence. (It heard only procedural arguments. It recessed, ostensibly to rule on procedure matters. Procedural rulings were never made, instead the Committee issued a "decision" on the merits of the case.)

If this proposition had been included in Dr. Berland's analysis, then these two conclusions would immediately follow, rather than the ones he gives.

1. The Palmer Committee failed to conduct a fair and just hearing, and

2. The Palmer Committee's decision is a nullity.

What does the above reveal as the major flaw in Professor Berland's reasoning ? It is that he regards what is a necessary condition as also being a sufficient condition. Certainly it is necessary that a Hearing Committee be properly chosen ("duly constituted", in Professor Berland's words) but that is not sufficient for a "fair and just" hearing. Hearing where properly chosen committees refuse to hear evidence are not "fair and just".

Therefore, the following conclusion warrants serious consideration by C.A.U.T. members. The Palmer Committee's decision would create a precedent dangerous to the Canadian university community as a whole, since it would establish that "duly constituted" hearing committees could recommend *dismissal* of faculty members *without hearing evidence.* Accordingly, the C.A.U.T. should reject the decision of the Palmer Committee.

K. Strand,
Professor of Economics and
President, Simon Fraser University.

October 13, 1970

FAREWELL THE IVORY TOWER

Universities in Transition
by J. A. Corry
Montreal and London: McGill — Queen's University Press, 1970

This volume, a collection of twelve addresses delivered on various occasions during the 1960s by J. A. Corry, former Principal of Queen's University and a distinguished Canadian academic, is Queen's inaugural contribution to the publication list of the recently organized McGill-Queen's University Press. Well-edited and handsomely if somewhat conservatively printed, and with a short graceful Introduction by J. E. Hodgetts of Victoria College, University of Toronto, this is a useful addition to the growing literature on higher education in Canada.

As Dr. Corry himself puts it, he has had "nearly fifty years of unbroken association with universities as a student and teacher, and in other more questionable roles" (p. 85). These latter include responsibilities as the chief administrative officer of one of Canada's most distinguished universities, as President of the National Conference of Canadian Universities and Colleges, now the A.U.C.C. (candidly acknowledged by him in 1963 to be "fairly described as the employers' association," p. 15), as Chairman of the Canadian Universities Foundation, and as Chairman of the Committee of Presidents of the Universities of Ontario, all of these during the decade of the sixties when Canadian higher education was undergoing enormous changes. Dr. Corry enjoyed an excellent vantage point from which not only to observe developments but also to influence them in significant ways.

These collected papers reflect the learning and wisdom of a widely respected academic administrator who addressed himself to many of the central issues facing contemporary Canadian higher education: university-government relations, institutional autonomy, university financing, university government, curricular reform, the flight from teaching, etc. It is a tribute to Dr. Corry's impressive abilities that he was able in the midst of his heavy administrative responsibilities to find the time to prepare these addresses. Their publication now makes them available to a wider public.

The pieces, arranged chronologically, begin with Corry's inaugural address as Principal of Queen's in October 1961, entitled *The*

University and Social Change. Here he outlines his understanding of the basic problems of Canadian institutions of higher education, problems posed by their evolution from members of a small, inherently conservative community with predominantly individualistic bias devoted mainly to teaching in the liberal arts and in the learned professions of education, law, medicine and the ministry to a rapidly expanding community with added and growing heavy responsibilities for graduate study, research and service to society. In Corry's description, it is the movement of our universities from private domain to public utility. Though the analysis is familiar to students of contemporary higher education, Corry's exposition is valuable because it is brief, cogent and lucid. The same analytical framework recurs again and again throughout the subsequent pieces but in them we see Dr. Corry coming more effectively to grips with the various specific implications of this remorseless evolution. As his experience grows, his grip on the issues become more sure and his practical judgments more perceptive.

Principal Corry saw clearly the emerging problems of university autonomy posed by the massive dependence of the institutions on public funds and he was an early Canadian exponent of the principles of "formula financing" as a means of preserving this autonomy while respecting governments' responsibilities to insure the efficient use of public funds. In a lecture delivered at Dalhousie University in 1964 on the *University and the Modern State* and published here for the first time. Corry espoused the principle of formula financing as an effective means of leaving universities free within allocated financial resources to develop their own priorities and to carry on their own academic programmes as they saw fit — the essential prerequisites of institutional autonomy, while freeing governments from the importuning of universities for funds as well as from the distasteful and frustrating task of deciding about academic matters, about which governments are not the best equipped. One notes, however, that for complex situations involving several universities and a government Dr. Corry proposed a formula involving a double-decked device:

> fixed block grants of varying amounts depending on the circumstances of each university, topped off with a system of uniform grants per student.
>
> The block grants would be designed to take into account the special situation of each university and to supplement the assured revenues of each to some equalized level where a system of uniform grants per student piled on top would cover foreseeable needs for a period of years (pp. 24-25).

What in fact happened in Ontario when formula financing was introduced for operating grants to universities proved that Corry,

the academic financial analyst, was to lose to Corry, the student of politics, the man who acknowledged in another context involving university-government relations that, "in a democracy, . . . political decisions are always compromises registering the balance of forces in our society" (p. 39). For what the universities of Ontario obtained was not the "double-decked device" advocated by Corry in which "block grants" were the basis, but a much more simplistic formula with essentially only one deck, the per capita student formula weighted according to categories based on academic programmes.

One address of particular relevance today is that delivered by Dr. Corry to the 1966 annual meeting of the A.U.C.C. in the traumatized atmosphere immediately following the announcement of the federal government's decision to withdraw from direct financing of Canadian universities. Although acknowledging wryly almost to have concluded that "a tidy mind is a crippling disability in dealing with the problems of the Canadian federation," Corry proceeds nevertheless to provide a clear exposition of the responsibilities for education that today devolve upon the federal government of Canada. Although, as Corry recognizes, his position favours increased participation by the federal government and thus is out of tune with the current trend towards provincial monopoly in these matters, it deserves careful attention and further elaboration, especially at present when the 1966 federal-provincial arrangements for the financing of post-secondary education are being reviewed.

While he would probably reject the term, Dr. Corry is an advocate of "faculty power" responsibly exercised. In an address given in the fall of 1969 at the University of New Brunswick on *University Government* he asserts as "right and proper" that university teaching staffs be "confirmed in virtual control of academic matters" and that "the senate, which speaks for them . . . coordinate and integrate academic policy, thus virtually compelling the board and the president to accept its recommendations in all but the most unusual circumstances" (p. 119). In his view, this will make the academic staff as much of a self-governing community as the world is likely to accept.

He is not nearly so favourably disposed towards student participation in university government. According to Corry, the function of students in the university is "to be learners, not operators," and he sees little direct role for them in the governing structures of the university. His judgment, based on a mixture of principle and pragmatism, is that, as far as student representation on board and senate are concerned, "it should be tokenism or nothing" (p. 119).

But Corry is not without sympathy for today's students. Nor does he subscribe to the notion that student criticisms and demands should be ignored. He is well aware of the justice of many of their current

criticisms, particularly those focussed on irrelevant curricula and poor pedagogy; and on these matters he is a strong advocate of reform. His style, however, and the tradition-oriented nature of his concern are not likely to win him support from among young faculty and students, even though they share many of his judgments on the causes of the current malaise of our universities.

Dr. Corry realizes that there is no chance that current campus disaffection will end until university priorities have been overhauled, the present too-heavy emphasis on research and graduate study reversed, and priority restored to teaching of high quality that does justice to broad, general education as well as to abstruse specialties. The accomplishment of such a task Corry places squarely on the shoulders of the faculty, who (he says) "as members of the self-governing community of scholars will have to realize that they are teachers first, abstruse specialists, researchers, and consultants afterwards" (p. 120). Some faculty members in Canadian universities would disagree with Dr. Corry on his judgment about where the power lies, and in the cases of many institutions they would be correct. But few would disagree with him in his judgment that,

> Right now, careful thought and fairly quick decision by the main custodians of university power (academic staffs) are needed on what the university should be, and can be, after it has been discovered to be a public utility (p. 105).

As is clear in its Seventh Annual Review, the Economic Council of Canada certainly does not. Unfortunately, there is depressingly little evidence that Canadian universities have begun seriously to restore undergraduate teaching to a place of honour or to redress the balance between graduate and undergraduate education and between teaching and research. Misconceptions about professionalism, external pressures for research and for public service, and (let's face it) some of the implications of the present systems of formula financing remain too strong.

To conclude on a mild negative note. The major weakness of the collected pieces is their brevity. Most of them were prepared as convocation addresses and while they set a standard consistently well above the average of performances given at such non-events they do not entirely escape the limitations of the genre. Much of the material presented here could be expanded upon for the benefit of the Canadian university community and the broader public interested in higher education in this country. One hopes that Dr. Corry might be persuaded to return to his study and prepare for publication more extended reflections on these important issues.

Edward J. Monahan.

SALARY SCALES FOR TEACHERS AT CANADIAN UNIVERSITIES AND COLLEGES, 1970-1971 - Data supplied to the Dominion Bureau of Statistics by the institutions

Institutions	Deans	Full Professors		Associate Professors	Assistant Professors	Rank immediately below assistant professor	Other ranks
		Department Heads Directors	Others				
	$	$	$	$	$	$	$
Acadia University [1]							
Minimum	-	-	-	-	-	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Alberta						Lecturer	
Minimum	-	20 230	19 730	14 630	10 920	8 215	-
Maximum	-	-	-	19 680	14 580	10 870	-
Annual increment	-	800	800	680	530	450	-
Collège de Bathurst						senior	senior [2]
Minimum	-	-	14 000	11 500	9 500	7 900	7 200
Maximum	-	-	-	-	-	-	-
Augmentation annuelle	-	-	400-425	400-425	400-425	400-425	400-425
Brandon University						Lecturer	Teacher of Oral French
Minimum	-	-	17 000	12 900	10 000	-	7 000
Maximum	-	-	-	17 000	12 900	10 000	-
Annual increment	-	-	-	-	-	-	-
University of British Columbia						Instructor II	
Minimum	-	15 800	15 800	11 700	9 500	7 800	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Brock University							
Minimum	-	-	18 100	14 000	11 100	8 800	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Calgary						Instructor	
Minimum	-	-	19 715	14 630	10 920	8 215	-
Maximum	-	-	-	19 665	14 575	10 865	-
Annual increment	-	750	750	640	500	425	-

[1] Revisions planned for 1970-1971.

[2] Chargé d'enseignement junior: minimum de $ 6 600 et augmentation annuelle de $ 350.

ÉCHELLES DE TRAITEMENT DES PROFESSEURS DES UNIVERSITÉS ET DES COLLÈGES DU CANADA, 1970-1971 - données recueillies par le Bureau fédéral de la statistique

institution	doyen	professeur titulaire		professeur agrégé	professeur adjoint	rang inférieur à celui de professeur adjoint	autres
		directeur de département	autres				
	$	$	$	$	$	$	$
Dalhousie University [1]							
Minimum	-	-	-	-	-	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
College of Education (University of Toronto) [2]							
Minimum	-	-	16 500	12 300	10 000	8 200	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Guelph							
Minimum	-	-	18 000	14 100	11 000	9 100	7 800
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Huron College (Ontario)							
Minimum	-	-	-	12 100	10 000	8 000	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of King's College							
Minimum	-	-	-	-	-	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Lakehead University							
Minimum	-	18 190	18 190	14 270	11 315	9 450	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Lethbridge							
Minimum	-	-	19 513	14 522	10 805	8 040	-
Maximum	-	-	-	19 463	14 472	10 755	-
Annual increment	-	-	957	713	531	395	-

[1] There is no university policy for salary scales.

[2] Revisions planned for 1970-1971.

SALARY SCALES FOR TEACHERS AT CANADIAN UNIVERSITIES AND COLLEGES, 1970-1971 - Data supplied to the Dominion Bureau of Statistics by the institutions

Institutions	Deans	Full Professors		Associate Professors	Assistant Professors	Rank immediately below assistant professor	Other ranks
		Department Heads Directors	Others				
	$	$	$	$	$	$	$
University of Manitoba							
Minimum	-	-	17 000	12 900	10 000	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
McGill University							
Minimum	-	17 700	17 700	13 800	10 650	8 850	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	440	440	440	400	330	-
McMaster University							
Minimum	-	19 000	17 500	13 700	10 700	7 800	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Memorial University						Lecturer	Instructor
Minimum	-	17 000	17 000	13 400	10 300	7 650	6 200
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Université de Moncton [1]							
Minimum	-	-	-	-	-	-	-
Maximum	-	-	-	-	-	-	-
Augmentation annuelle	-	-	-	-	-	-	-
Mount Allison University							
Minimum	-	-	17 000	13 200	10 300	8 200	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Mount Saint Vincent University							
Minimum	18 000	16 000	16 000	13 000	10 000	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-

[1] aucun minimum Etabli

ÉCHELLES DE TRAITEMENT DES PROFESSEURS DES UNIVERSITÉS ET DES COLLÈGES DU CANADA, 1970-1971 - *données recueillies par le Bureau fédéral de la statistique*

institution	doyen	professeur titulaire		professeur agrégé	professeur adjoint	rang inférieur à celui de professeur adjoint	autres
		directeur de département	autres				
	$	$	$	$	$	$	$
University of New Brunswick							
Minimum	-	16 600	16 600	13 100	9 900	8 000	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Ontario Institute for Studies in Education [1]							
Minimum	-	17 600	16 600	14 400	12 200	9 500	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Université d'Ottawa							
Minimum	-	17 100	17 100	13 400	10 250	8 100	-
Maximum	-	30 000	30 000	-	-	-	-
Augmentation annuelle	-	-	-	-	-	-	-
University of Prince Edward Island						Instructor or Lecturer	
Minimum	-	-	17 000	14 250	10 800	8 750	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Queen's University							
Minimum	-	-	18 200	14 300	10 900	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Collège Sainte-Anne							
Minimum	-	-	-	-	-	-	-
Maximum	-	-	-	-	-	-	-
Augmentation annuelle	-	-	-	-	-	-	-
St. Francis Xavier University							
Minimum	-	-	17 700	13 900	10 800	8 900	-
Maximum	-	-	-	17 400	12 900	9 900	-
Annual increment	-	-	-	-	-	-	-

[1] *These are not final scales for 1970-1971.*

SALARY SCALES FOR TEACHERS AT CANADIAN UNIVERSITIES AND COLLEGES, 1970-1971 - Data supplied to the Dominion Bureau of Statistics by the institutions

Institutions	Deans	Full Professors		Associate Professors	Assistant Professors	Rank immediately below assistant professor	Other ranks
		Department Heads Directors	Others				
	$	$	$	$	$	$	$
Saint Mary's University							
Minimum	-	-	16 500	12 500	9 500	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	7-10%	7-10%	7-10%	7-10%	7-10%	7-10%	7-10%
University of St. Michael's College							
Minimum	17 300	17 300	17 300	13 000	10 500	8 600	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
St. Thomas University							
Minimum	-	-	16 600	13 100	9 900	8 000	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
St. Thomas More College							
Minimum	-	-	18 050	14 000	10 600	8 150	7 650
Maximum	-	-	(1)	18 025	13 900	10 750	9 650
Annual increment	-	-	650	575	550	400	200
University of Saskatchewan							
Minimum	-	18 050	18 050	14 000	10 600	8 150	7 650
Maximum	-	-	-	18 025	13 900	10 750	9 650
Annual increment	-	650	650	575	550	440	200
Simon Fraser University (2)							
Minimum	-	-	15 800	11 700	9 500	7 800	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Toronto							
Minimum	-	17 300	17 300	13 000	10 500	8 600	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-

(1) To a maximum of $ 20 000; special increments beyond that point are possible (not automatic).

(2) Revision planned for 1970-1971.

ÉCHELLES DE TRAITEMENT DES PROFESSEURS DES UNIVERSITÉS ET DES COLLÈGES DU CANADA, 1970-1971 - *données recueillies par le Bureau fédéral de la statistique*

institution	*doyen*	*professeur titulaire*		*professeur agrégé*	*professeur adjoint*	*rang inférieur à celui de professeur adjoint*	*autres*
		directeur de département	*autres*				
	$	$	$	$	$	$	$
Trent University							
Minimum	-	-	18 200	14 000	10 800	8 500	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Waterloo							
Minimum	21 700	19 300	18 700	14 400	11 100	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
Waterloo Lutheran University							
Minimum	23 000	-	18 100	13 900	10 900 [1]	8 800 [2]	-
Maximum	26 000	-	-	17 050	13 000 [1]	10 550 [2]	-
Annual increment	500	-	400	350	300 [1]	250 [2]	-
University of Western Ontario							
Minimum	-	17 800	17 800	13 450	11 150	8 800	7 600
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
University of Windsor							
Minimum	-	19 250	18 200	14 900	11 200	9.000	-
Maximum	-	25 100	-	19 000	15 500	12 000	-
Annual increment	-	-	7%	6.4%	6.65%	5.9%	-
University of Winnipeg							
Minimum	-	-	17 000	12 900	10 000	-	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-
York University							
Minimum	-	-	17 600	13 200	10 700	8 500	-
Maximum	-	-	-	-	-	-	-
Annual increment	-	-	-	-	-	-	-

[1] *Minimum, maximum and increment for Category I. For Category II maximum is $ 10 900 and increment $ 200.*

[2] *Minimum, maximum and increment for Category I. For Category II maximum is $ 8 800 and increment $ 150.*

positions vacant | *postes vacants*

UNIVERSITY OF BRITISH COLUMBIA. Department of English. Applications are invited from persons qualified to fill two vacancies at the Full Professor level. The positions are in modern British literature, and in critical theory. Applicants should be of established reputation, experienced in directing graduate research, and interested in undergraduate teaching. Two additional vacancies exist at the Assistant Professor level, Ph.D. required. Salaries fully competitive and dependent upon qualifications and experience. Direct application, *curriculum vitæ*, and names of referees to Dr. R. M. Jordan, Head, Department of English, The University of British Columbia, Vancouver 8, B.C.

Institute of Oceanography. Applications are invited for a position in Zoological Oceanography in this Institute in the Faculty of Graduate Studies. Qualifications required are appropriate to duties: to carry out research, to supervise graduate students and to lecture at upper and graduate levels. The required field of research is in the ecology of marine zooplankton. The position is now available. Rank and salary will be appropriate to the appointee's qualifications and experience. Base salaries: Assistant, $9,500; Associate, $11,700; Full Professor, $15,800. Plus 10% superannuation and other benefits. The appointment will be made jointly in Oceanography and the Department of Zoology. Send applications with *curriculum vitæ*, indication of the type of research projects proposed and the names of three referees to: Director, Institute of Oceanography, University of British Columbia, Vancouver 8, B.C., Canada.

BROCK UNIVERSITY. Department of Biological Sciences. Applications are invited for the position of Chairman of the Department for a renewable three-year term. The Department offers undergraduate programmes leading to Honours and Pass Bachelors degrees. The Department, which incorporates biochemistry, offers an M.Sc. programme in cellular and molecular Biology and is planning one in Ecology. Candidates should have demonstrated research competence and teaching ability and have had appropriate administrative experience. The deadline for applications is November 30, 1970 and the appointment will become effective July 1, 1971. Applications, including *curriculum vitæ* and the names of at least three referees, should be sent to: Dr. R. P. Rand, Chairman Applications Committee, Department of Biological Sciences, Brock University, St. Catharines, Ontario, Canada.

DALHOUSIE UNIVERSITY. Department of Sociology and Anthropology. Positions available at all levels. Teaching graduate and undergraduate courses, six hours per semester. All areas of special interest considered, but some preference may be given to Theory (general), Social Demography, Social Psychology (small groups), Methods, Organizations, Medical, and Social Anthropology. Ph.D. required; salary competitive at all levels; fringe benefits;

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seven month academic year. Write: Recruitment Committee, Department of Sociology and Anthropology, Dalhousie University, Halifax, Nova Scotia, Canada.

UNIVERSITY OF GUELPH. College of Biological Science. The University of Guelph is establishing a College of Biological Science as of January 1, 1971. Applications are invited for the position of Dean of the College. The new College requires the leadership of a recognized scholar with broad knowledge of the life science and capacity for imaginative leadership. Experience in administration of academic and research programmes is desirable. The University nevertheless expects its senior academic officers to continue in scholarly work. The salary for the position is negotiable. Enquiries and applications, which will be treated in confidence, should be addressed to the Vice-President, Academic, University of Guelph, Guelph, Ontario.

Office of Continuing Education. Applications are invited for the position of Director of the Office of Continuing Education at the University of Guelph. The Office of Continuing Education plans, co-ordinates, and administers a wide programme of non-credit and certificate courses, including offerings in areas of general education and in technical education connected mainly with agriculture and rural life. The Director should be a person of strong academic qualifications. Experience in adult education programmes in a university is desirable. The salary will be commensurate with qualifications and experience. Duties will begin in 1971. Enquiries and applications, which will be treated in confidence, should be addressed to the Vice-President, Academic, University of Guelph, Guelph, Ontario. A *curriculum vitæ* and the names of three referees should accompany any application.

College of Social Science: Department of Economics. Applications are invited for the position of Department Chairman. The 15-man department has a fully developed undergraduate programme and an M.A. programme. Candidates should have a Ph.D. in Economics and teaching and research experience. Salary commensurate with academic qualifications and experience. Applications should be sent to: J. W. Skinner, Dean, College of Social Science, University of Guelph, Guelph, Ontario, Canada.

Department of Fine Art. Art Historian. Ph.D. or substantial publications. Specialization in an area of 20th Century Art. Salary and rank according to experience and qualifications. Appointment to commence July 1, 1971. Apply to Professor Eric Cameron, Chairman, Department of Fine Art. Closing date March 31, 1971.

Department of Fine Art. Sculptor. Professional standing as a sculptor. Salary and rank according to experience and qualifications. Appointment to commence July 1, 1971. Apply to Professor Eric Cameron, Chairman, Department of Fine Art. Closing date March 31, 1971.

UNIVERSITY OF LETHBRIDGE. Department of Dramatic Arts. Applications are invited for the Chairmanship of the Department of Dramatic Arts. The responsibilities of the appointee will include curricular and physical planning and the initiation of the instructional programme of the new department in the Fall Semester, 1971. Inquiries and applications should be addressed to the Dean of Arts and Science, University of Lethbridge, Lethbridge, Alberta, before January 15, 1971. The appointment is to be effective July 1, 1971.

UNIVERSITY OF MANITOBA. Department of History. Applications are invited for regular appointments in the following fields: New France and

Modern Canada (Urban History). Applications are also invited for Visiting Lecturerships in the following fields: 17th Century Europe, British Empire-Commonwealth and U.S. History. Applicants should have Ph.D. or near equivalent. Rank and salary dependent on qualifications. Appointment from July 1, 1971. Address inquiries and applications to R. A. Lebrun, Acting Head.

McGILL UNIVERSITY. Department of Sociology. Applications are invited for positions as Assistant Professor, Associate Professor, and Full Professor, for appointments starting September 1, 1971. Salaries according to rank and qualifications. Successful candidates will teach and carry on research in fields of their own special interests. Please write enclosing *curriculum vitæ*, to Chairman, Department of Sociology, McGill University, Montreal 110, Quebec.

McMASTER UNIVERSITY. Department of Political Science. Applications are invited from specialists in the following fields: law, judicial behavior, and public administration in Canada and the United States; Canadian foreign policy; French-Canadian politics; international politics and organization; normative political theory. Applicants should have an interest in teaching undergraduates and in participating in the supervision of Ph.D. students. Applicants must have the Ph.D. by September 1971. Appointments may be made at any professorial rank. Applications, including *curriculum vitæ* and statement of research and teaching interests, should be sent to Dr. Howard H. Lentner, Chairman, Department of Political Science, McMaster University, Hamilton, Ontario.

Department of Psychology. Applications are invited for a number of positions, starting July 1, 1971. A Ph.D. is an essential requirement. While there is no restriction as to field of specialization, primary interest is in those working in Developmental, Personality, and Social Psychology. Salary minima are: $10,700.00, $13,700.00, and $17,500.00 for the three professorial ranks. Address enquiries to P. L. Newbigging, Chairman, Department of Psychology, McMaster University, Hamilton, Ontario.

MEMORIAL UNIVERSITY OF NEWFOUNDLAND. Department of Geography. Applications are invited for a position in Fisheries or related Marine Studies. Duties to teach courses in systematic and regional fisheries, the geography of the seas, supervise graduate work and conduct seminars. Opportunities for research. Applicants should have some practical experience in some field of fisheries or other marine oriented work, as well as suitable academic training. Rank and salary commensurate with qualifications. Closing date for applications November 30, 1970. Apply to: The Head, Department of Geography, Memorial University of Newfoundland, St. John's, Newfoundland, Canada.

NOVA SCOTIA TECHNICAL COLLEGE. Department of Civil Engineering. A vacancy exists at the Nova Scotia Technical College for a senior appointee experienced in various aspects of Ocean Engineering. The appointee will be expected to provide leadership, particularly with respect to stimulating the bringing of other expertise within the Faculty to bear on problems associated with the ocean. The College is well situated for such work in conjunction with the existence in Halifax of the Bedford Institute, several universities, other Federal and Provincial research laboratories, Dockyards, etc. The College, itself, offers Bachelors, Masters, and Doctoral Programmes in Engineering and has a School of Architecture. Enquiries should be addressed to:— Dr. E. L. Holmes, Dean of Engineering, NOVA SCOTIA TECHNICAL COLLEGE, P.O. Box 1000, Halifax, Nova Scotia, Canada.

UNIVERSITÉ D'OTTAWA. Département de Science politique. Le Département de Science politique est à la recherche de professeurs, agrégés ou titulaires, dans les domaines suivants: système politique canadien, sociologie politique, systèmes politiques comparés, relations internationales. Les candidats doivent avoir le diplôme de doctorat ou l'équivalent. Les candidatures doivent être présentées (*curriculum vitæ* à l'appui) au Directeur, Département de Science politique, Université d'Ottawa, Ottawa 2.

UNIVERSITY OF OTTAWA. Department of Political Science. Rapidly expanding, Department of Political Science seeks qualified applicants at the levels of associate and full professor in the fields of: Canadian Government, Political Sociology, Comparative Government, International Relations. Salary commensurate with qualifications. Research funds and facilities available. Administrative obligations negligible. Good knowledge of English and French required. Applications, including *curriculum vitæ*, should be sent to the Chairman, Department of Political Science, University of Ottawa, Ottawa 2.

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The last issue of the C.A.U.T. Bulletin (vol. 18, no. 4, Summer '70) carried on page 78 an advertisement about TEACHERS UNIVERSITY, Miami, Florida.

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